

BOARD MEETING
STATE OF CALIFORNIA
AIR RESOURCES BOARD

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
COASTAL HEARING ROOM, SECOND FLOOR
1001 I STREET
SACRAMENTO, CALIFORNIA

THURSDAY, FEBRUARY 21, 2002
9:00 A.M.

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
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APPEARANCES

BOARD MEMBERS

Dr. Allan Lloyd, Chairperson
Mr. Joseph Calhoun
Mrs. Barbara Riordan
Ms. Dorene D'Adamo
Supervisor Mark DeSaulnier
Mr. Matthew McKinnon

STAFF

Mr. Mike Kenny, Executive Officer
Mr. Tom Cackette, Deputy Executive Officer
Mr. Mike Scheible, Deputy Executive Officer
Ms. Lynn Terry, Deputy Executive Officer
Mr. Chuck Bennett, Air Resources Engineer
Mr. Richard Bode, Chief, Health and Exposure Assessment
Branch
Mr. Joseph Calavita, South Coast Air Quality Management
District Liaison
Mr. Bart Croes, P.E., Chief, Research Division
Mr. Bob Effa, Chief, Air Quality Data Branch
Mr. Bob Fletcher, Chief, Planning and Technical Support
Division
Ms. Tracy Hysong, Population Studies Section
Mr. Kurt Karperos, Manager, Transportation Strategies
Section

APPEARANCES CONTINUED

STAFF CONTINUED

Ms. Leslie Krinsk, Senior Staff Counsel
Mr. Jeff Lindberg, Air Pollution Specialist
Ms. Karen Magliano, Manager, Particulate Matter Analysis
Section
Ms. Cynthia Marvin, Chief, Air Quality and Transportation
Planning Branch
Mr. Kirk Oliver, Senior Staff Counsel
Ms. Tina Suarez-Murias, Air Pollution Specialist
Ms. Kathleen Tschogl, Ombudsman
Mr. Leo Vann, Smog Check Policy Advisor
Dr. Barbara Weller, Manager, Population Studies Section

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What follows is an excerpt from the transcript of the Board meeting, covering the text of the Public Hearing on the proposed "Air Toxic Control Measures for the Emissions of Toxic Air Pollutants from Outdoor Residential Waste Burning." The transcript for all of the items on the agenda can be viewed in full on the ARB website at this address: <http://www.arb.ca.gov/board/board.htm#2>. Scroll down to "Past Board Meetings" and in the row for the February 21-22, 2002 meeting, click on "498K" in the "Transcripts" column.

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24 CHAIRPERSON LLOYD: The next item on the agenda
25 is consideration of a control measure to reduce emissions

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53

1 of toxic air contaminants from outdoor residential waste
2 burning.
3 The Board ask staffed to look at this issue when
4 public health concerns about backyard burning were raised
5 last year by local air districts. And I must say this was
6 also hammered home to me when I went up to visit Bob
7 Reynolds. So wherever Bob is here, at least he bears some
8 of the credit or blame whichever way.

9 (Laughter.)

10 CHAIRPERSON LLOYD: While burning of most
11 residential waste is already prohibited in a large portion
12 of the State, there are still communities that are
13 impacted by this practice. I understand there are also
14 concerns about restrictions on burning especially in some
15 sparsely populated areas.

16 There are a number of people here who wish to
17 testify on these points, so I would like to get started
18 and turn it over to Mr. Kenny at this point.

19 EXECUTIVE OFFICER KENNY: Thank you, Mr. Chairman
20 and Members of the Board. Last June, the Board asked
21 staff to move expeditiously to develop a proposed toxic
22 control measure to address residential burning. Since the
23 Board meeting staff has worked extensively with the air
24 districts, fire agencies, the Integrated Waste Management
25 Board and the Regional Council of Rural Counties to gather

1 information about outdoor residential burning.
2 Currently rules in 27 air districts all the
3 burning of some form of residential waste other than
4 natural vegetation in some or all of the air districts.
5 Typically, this burning takes place in a 55 gallon metal
6 container known as a burn barrel. The proposed control
7 measure will minimize emissions of dioxins and other toxic
8 air contaminants from residential waste burning by
9 addressing both the materials which can be burned and the
10 method of burning.

11 The proposed control measure provides for
12 protection of public health while recognizing the desire
13 to allow some burning to continue in rural areas where
14 alternatives are not available. Since the release of our
15 proposal, staff held a number of workshops and seriously
16 considered the comments received. And as a result, we are
17 presenting a revised proposal that we think will help
18 address some of the remaining issues.

19 With that, I'd like to turn the presentation over
20 the Tina Suarez-Murias who will make the presentation.

21 (Thereupon an overhead presentation was
22 presented as follows.) [go to SLIDE ONE]

23 AIR POLLUTION SPECIALIST SUAREZ-MURIAS: Thank
24 you. Good morning, Chairman Lloyd and Members of the
25 Board. Today we will be presenting to you staff's

1 proposal to reduce the public health risks posed by
2 outdoor residential waste burning. [go to SLIDE TWO]

3 Residential waste burning, commonly referred to
4 as backyard garbage burning, is a significant source of
5 dioxins and other toxic air contaminants such as Benzene,
6 1,3-Butadiene, Poly Aromatic Hydrocarbons, or PAHs, and
7 Poly Chlorinated Biphenyls, or PCBs in both the smoke and
8 the ash.

9 These five pollutants pose the greatest health
10 risks. However, toxics metals such as cadmium, chromium
11 and mercury are also produced. In addition, the smoke
12 from backyard burning produces fine particulate matter.
13 Dioxins and other toxic contaminants can cause cancer and
14 contribute to other health effects.

15 Children's exposure to this source is of special
16 concern. Both dioxins and PAHs have been identified by
17 the Office of Environmental Health Hazard Assessment as
18 pollutants that may cause children to be especially
19 vulnerable to illness. [go to SLIDE THREE]

20 The proposed regulation will reduce health risks
21 to the households conducting the burning, as well as
22 surrounding neighborhoods. While backyard garbage burning
23 is banned in many areas of the State, it still occurs in
24 parts of California, including many densely populated
25 communities.

1 The regulation eliminates backyard garbage
2 burning in all populated areas in the State. In these
3 areas, other waste disposal options are available and
4 should be used. The regulation does provide exemptions in
5 sparsely populated areas where the availability of other
6 waste disposal options is limited, and community health
7 risk is much lower.

8 However, in response to comments received, we
9 have modified the original regulation proposal to provide
10 an improved exemption process and to incorporate a strong
11 public education component.

12 [go to SLIDE FOUR]

13 AIR POLLUTION SPECIALIST SUAREZ-MURIAS: Backyard
14 garbage burning is the disposal of waste from one- and
15 two-family homes by burning it outdoors. These wastes can
16 include anything from food waste, plastics and metal cans
17 to paper, cardboard and treated and processed wood.

18 However, it does not include burning of natural
19 vegetation grown on the property. This burning generally
20 takes place in 55 metal gallon drums -- 55-gallon metal
21 drums, known as burn barrels, but it can also occur in
22 piles on the ground.

23 [go to SLIDE FIVE]

24 AIR POLLUTION SPECIALIST SUAREZ-MURIAS: The
25 toxic air contaminants identified pose a number of health

1 risks. They can cause cancer, neurological liver and
2 kidney damage, skin and eye and respiratory irritation,
3 and can compromise the immune system.

4 Dioxins are of special concern, because they are
5 the most potent. They may last in the environment for
6 many years. Dioxins can also accumulate in the fat of
7 fish and animals and are then passed on to people when
8 contaminated food is eaten.

9 In addition, the smoke from backyard garbage
10 burning contains fine particulate matter. It can produce
11 respiratory and cardiac problems, especially among the
12 sensitive populations, such as the elderly and the very
13 young, As discussed in the first board item this morning.

14 [go to SLIDE SIX]

15 AIR POLLUTION SPECIALIST SUAREZ-MURIAS: Young
16 children are also especially vulnerable to dioxins,
17 because dioxins can be passed on through mother's milk,
18 and because of their rapid growth in development.

19 As mentioned earlier, both dioxins and PAHs may
20 cause children to be especially susceptible to illness.
21 Because the smoke from backyard garbage burning often
22 crosses property lines, health impacts can occur both to
23 the household conducting the burning as well as to
24 households in surrounding communities.

25 Depending upon location within the State,

1 potential cancer risks from exposure to backyard garbage
2 burning. As source location ranges from approximately 180 up
3 to 400 additional cancer cases per million.

4 For comparison, the current risk posed by
5 exposure to the top 10 toxic air contaminants, including
6 diesel particulate matter, in an urban area is about 750
7 additional cancer cases per million.

8 [go to SLIDE SEVEN]

9 AIR POLLUTION SPECIALIST SUAREZ-MURIAS: As
10 previously discussed, although many areas of the state
11 already prohibit backyard garbage burning, there are still
12 many jurisdictions where it is allowed.

13 This map shows what is currently allowed under
14 air district rules. Eight air districts, shown in green,
15 prohibit all backyard garbage burning. Twenty-one air
16 district, colored yellow, allow only the burning of some
17 combination of cloth, treated wood products, paper or
18 cardboard.

19 Finally, six air districts, shown in gray, have
20 no restrictions on what materials, including plastics, can
21 be burned in all or part of the air district.

22 In some instances, there are additional local
23 ordinances that go beyond the air district regulations.

24 [go to SLIDE EIGHT]

25 AIR POLLUTION SPECIALIST SUAREZ-MURIAS: In

1 developing the proposed Regulation, we worked extensively
2 with a number of groups.

3 These included a residential burning working
4 group, meetings with fire and waste management agencies
5 and air districts. In addition, we held 21 public
6 workshops in 17 locations throughout the State to provide
7 the general public an opportunity to learn about the
8 proposed regulations and to hear and address their
9 concerns.

10 Based on this input, we have developed the
11 regulation and proposed modifications discussed in the
12 next slides.

13 [go to SLIDE NINE]

14 AIR POLLUTION SPECIALIST SUAREZ-MURIAS: On
15 January 4th of this year, we released the initial
16 regulation for public comments, which includes these basic
17 proposed provisions shown here. Because no external
18 control technology is feasible for backyard burning
19 sources, such as burn barrels, the best available control
20 technology is elimination of the burning of all types of
21 household garbage other than natural vegetation.

22 In addition, many air districts and fire agencies
23 report that prohibited materials, such as plastics, are
24 commonly found in burn barrels. Therefore, the proposed
25 regulation also eliminates the use of burn barrels to

1 assist in enforcement efforts.

2 Burning of allowable materials can occur only on
3 permissive burn days and only an approved ignition device
4 can be used to start the fire. We also included a
5 provision for limited exemptions, based upon general
6 criteria including the availability of waste service,
7 distance to a landfill and population density.

8

9 AIR POLLUTION SPECIALIST SUAREZ-MURIAS: The
10 requirements would be come effective July 1st, 2003.
11 However, since the release of the original proposal, we
12 have continued to work with the air districts and rural
13 counties to develop further modifications to this
14 proposal.

15 [go to SLIDE TEN]

16 AIR POLLUTION SPECIALIST SUAREZ-MURIAS: The
17 first important modification is that only paper and
18 cardboard can be burned in exemption areas. Under the
19 original proposal, there are no restrictions on the
20 materials that can be burned in the exemption areas.

21 This modification is in recognition that the
22 greatest public health risks are associated with the
23 burning of plastics and other synthetic materials.

24 Second, the effective date has been moved back to
25 January 1st, 2004. This provides additional time for

1 public education by the ARB, as wellAs additional time for
2 the Integrated Waste Management Board and local
3 jurisdictions to enhance waste disposal alternatives.

4 Finally, many air districts were concerned about
5 the lack of specific criteria and the role of ARB in the
6 exemption approval process. Therefore, specific exemption
7 criteria have been developed that are based upon
8 population density, using U.S. census zip codes. These
9 exemptions will be revisited every ten years rather than
10 every five to be consistent with the availability of new
11 census data.

12 [go to SLIDE ELEVEN]

13 AIR POLLUTION SPECIALIST SUAREZ-MURIAS:As
14 illustrated in this slide, a tiered population density
15 approach has been developed based upon the 2000 census zip
16 code areas. A full scale map of all affected areas is
17 also shown on the stands to my right.

18 All zip codes with a population density of less
19 than or equal to three people per square mile will be
20 automatically exempt. These areas are represented by dark
21 green on the map. In zip codes with a population density
22 greater than three and less than or equal to ten people
23 per square mile shown in light green on the map, the air
24 district can request an exemption to burn paper and the
25 ranking fire official can request the use of a burn barrel

1 based upon fire safety concerns.

2 In these areas, a permit provide or other
3 mechanism to distribute educational materials will need to
4 be in place. The district governing board must approve
5 the exemption request at a public meeting. Air districts
6 may also delineate portions of the zip code, where the
7 exemptions do not apply.

8 Finally, no exemptions will be provided for zip
9 codes with a population density greater than ten people
10 per square mile or for any incorporated area.
11 Incorporated areas are shownAs yellow squares on the map,
12 with the red areas representing this highest population
13 density tier.

14 However, air districts may request an exemption
15 for portions of the zip code, if they can demonstrate that
16 the population density in the smaller area is less than
17 three people per square mile. Exemptions for these
18 subareas must be revisited every five years.

19 [go to SLIDE TWELVE]

20 AIR POLLUTION SPECIALIST SUAREZ-MURIAS: We also
21 examined the potential impacts of the regulation on waste
22 diversion and landfill capacity, illegal dumping, indoor
23 burning, increased vehicle traffic and fire safety.

24 A strong public education effort coupled with the
25 Integrated Waste Management Board's efforts to work with

1 local jurisdictions to address waste disposal needs will
2 reduce the potential impacts on landfill capacity and
3 illegal dumping.

4 In addition, exemptions will be provided in rural
5 areas where alternative waste disposal options are most
6 lacking. Education about health impacts will also play a
7 key role in discouraging people from exposing their
8 families to additional health risks by burning waste
9 indoors.

10 Finally, because of fire safety concerns about
11 the burning of paper and cardboard in open piles, the use
12 of burn barrels can be allowed in areas receiving an
13 exemption to burn these materials. They will not be
14 allowed in more densely populated areas where only natural
15 vegetation is burned to prevent the burning of illegal
16 materials in them.

17 [go to SLIDE THIRTEEN]

18 AIR POLLUTION SPECIALIST SUAREZ-MURIAS:
19 Potential economic impacts of the regulation include
20 enforcement, public education and waste disposal costs.

21 Enforcement of the regulation will be the primary
22 responsibility of the air districts and fire agencies.
23 Because enforcement is generally complained driven, an
24 overall reduction in backyard garbage burning coupled with
25 extensive public education should minimize the impact on

1 enforcement workloads.

2 The ARB is committed to the development and
3 distribution of public education materials and will assist
4 air districts and fire agencies in their further efforts.
5 Households that had previously been burning some or all of
6 their waste will be required to use additional alternative
7 disposal methods.

8 Additional costs could range from \$100 to \$600
9 per year per household. However, these costs can be
10 reduced in areas with recycling programs that allow
11 materials to be dropped off at no charge.

12 While the regulation does not require the
13 expansion of waste collection, recycling and disposal
14 services, the regulation may stimulate increased
15 opportunities, better efficiencies and economies of scale
16 for local agencies striving to provide better services to
17 their constituents. [go to SLIDE FOURTEEN]

18 During the public comment period, several
19 additional issues have also been raised. First is the
20 consideration of widening the discretionary exemption tier
21 to a higher population density cut point. We have
22 evaluated several different cut points and feel they would
23 exempt substantially more households and therefore would
24 not beAs health protected.

25 Second, at the workshops, citizens have

1 questioned whether we have monitoring data or plan to
2 conduct monitoring to demonstrate that toxic emissions
3 exist in unhealthful quantities in their particular
4 community.

5 While ambient measurements have not been made in
6 most communities, because testing has demonstrated that
7 the combustion of backyard garbage results in substantial
8 emissions, and because there is no threshold below which
9 public exposure is considered safe, there is an adequate
10 basis to control this source. Finally, requests have been
11 made for a later effective date to allow more time for
12 public education and development of waste disposal
13 alternatives.

14 We believe our modification to provide ARB
15 commitment to public education will be effective in
16 meeting this need.

17 In addition, the ten-year exemption review
18 schedule will provide time for expansion of waste services
19 in those areas where they are most lacking.

20 [go to SLIDE FIFTEEN]

21 AIR POLLUTION SPECIALIST SUAREZ-MURIAS: In
22 summary, we recommend that the Board adopt the proposed
23 regulation with the additional modifications presented
24 today. We believe that a strong commitment to public
25 education and outreach is essential, and we will work with

1 the air districts and fire districts to provide the needed
2 information.

3 We also support a continued, strong working
4 relationship with the Integrated Waste Management Board
5 and others to develop and distribute educational
6 materials, as well as in promoting other waste disposal
7 alternatives, which are environmentally sound.

8 Thank you.

9 CHAIRPERSON LLOYD: Thank you very much. And,
10 again, Madam Ombudsman, will you please describe the
11 public participation process that occurred while this item
12 was being developed before it was brought before the
13 Board.

14 OMBUDSMAN TSCHOGL: Mr. Chairman and Members of
15 the Board, as you know, at your June 29th, 2001 meeting
16 you directed staff to develop an Airborne Toxic Control
17 Measure, ATCM, for dioxin emissions from residential waste
18 burning and the use of burn barrels.

19 Since that time, staff has worked with the
20 following entities in the development of the proposed
21 ATCM, the California Air Pollution Control Officers
22 Association, Air Pollution Control districts, California
23 Integrated Waste Management Board, Office of Health Hazard
24 Assessments, California Department of Forestry, United
25 States Forest Service and the Regional Council of Rural

1 Counties.

2 The residential waste burning working group was
3 an offshoot of the existing smoke management working
4 group. The residential waste burning working group
5 discussed technical and nontechnical issues related to the
6 proposed ATCM before you now. The working group
7 membership consisted of 50 people from the various
8 agencies identified previously in addition to other ARB
9 divisional staff.

10 The working group organized 11 conference calls
11 and meetings with the above mentioned entities between
12 October 2000 and December 2001. Each meeting was attended
13 by about 25 people representing the APCDs, OEHHA, the
14 Integrated Waste Management Board, the Forest Service and
15 environmental groups, including the American Lung
16 Association.

17 Beginning in August 2001, staff met individually
18 with the staff from Modoc, Yreka, Mendocino, Lake,
19 Northern Sonoma, North Coast, Monterey, Kern and San Diego
20 air pollution control districts. In addition, staff met
21 with local fire department personnel, RCRC, local waste
22 management agencies and service providers, the California
23 Department of Forestry and the California Integrated Waste
24 Management Board.

25 In December 2001, staff conducted nine public

1 workshops in the following six locations Sacramento,
2 Yreka, Alturas, Susanville, Hollister and Alpine.
3 In January of 2002, staff conducted 12 public
4 workshops in the following 11 locations, Nevada City,
5 auburn, Jamestown, Willows, Oroville, Mariposa,
6 Placerville, Eureka, Crescent City, Redding and Yuba city.
7 Attendance at these workshops ranged from two in
8 Sacramento County to 40 at the Mariposa county workshop.
9 Workshops notices were sent out to over 4,000 people.
10 Staff used these community meetings to receive
11 input from the general public on how best to develop the
12 proposed ATCM. Such as issues as costs, density, distance
13 from the landfill, environmental impacts prohibiting the
14 burning of paper, landfill capacity, as well as the
15 additional trips associated with traveling to the landfill
16 were discussed at these workshops.
17 All workshops were noticed in the local
18 newspapers via local media advisories and on the ARB's
19 calendar of events schedule. Staff has developed two fact
20 sheets and a web site.
21 Finally, on January 4th, 2002, the public hearing
22 notice was sent out to over 4,000 people and staff sent a
23 copy of the staff report and proposed regulations to each
24 of the air districts.
25 Thank you. That concludes my comments.

1 CHAIRPERSON LLOYD: Thank you very much.
2 Questions from the Board to the staff?
3 Seeing no questions, at this time, I'll take
4 the -- start on the first of the witnesses. I'd like to
5 again remind witnesses if they have written copies of the
6 testimony, if they could provide it to the Clerk of the
7 Board. First, we have Supervisor Cantrall, Supervisor
8 Pearson, Mr. Mark Leary, Barbara Lee.
9 MODOC COUNTY SUPERVISOR CANTRALL: Good morning,
10 fellow public servants of the people of California.
11 Oh, this mic. Usually, I don't need one.
12 I would like to say right off that I would like
13 to thank Mr. Effa for bringing the group of people to
14 Modoc county. And I would like to ask youAs a Board
15 representing the people of California, how many of you
16 have been to the northern counties?
17 (Hands raised.)
18 MODOC COUNTY SUPERVISOR CANTRALL: Very good.
19 More trips are needed. First of all, I would like to ask
20 you to totally exempt Modoc, Lassen, Siskiyou and whatnot.
21 We are grateful that you have given us some leeway in
22 every ten years, but the way things are going our
23 population is not going to grow. We have no mills left,
24 no business of any kind in those counties and I can't see
25 us growing, so why don't you just totally exempt us, and

1 why don't you take MTBE out of the system. That would do
2 more for the State of California than taking away our
3 little old burn barrels.

4 For air quality versus water quality control, I
5 would wish that you would work a little more closely with
6 them, because we are under sanction from water quality
7 control controlling what we take to the dumps, from the
8 dumps to Lockwood. If we raise that consumption going to
9 the landfills and the dump sites, then we're going to be
10 fined by water quality control. And, of course, it is
11 going to go up if we have no burn barrels. And like I
12 say, we grant you've given us a little space, give us all
13 of it.

14 I would ask you people if you took an oath of
15 office, like I did, to uphold the Constitution of the
16 United States? I thought you did. It does say in that
17 oath that we will defend our people against all enemies,
18 foreign and domestic.

19 And I would like to leave you with this one word.
20 You make laws regarding northern California about a people
21 you don't know and a land most of you have never really
22 truly toured. Isn't that coming under the heading of
23 domestic enemy, when you slit the throats of the people of
24 the northern part of the State just to make us look like
25 Los Angeles county or San Francisco or Sacramento?

1 I, too, took that oath. And as little girl, I had
2 the enemies of Imperial Japan and Nazi Germany. And I say
3 to you that the only enemy I have today are the
4 politicians of Sacramento and the United States government
5 and I hope you start changing your ways.

6 Thank you.

7 CHAIRPERSON LLOYD: Thank you.

8 Next Supervisor Pearson.

9 PLUMAS COUNTY SUPERVISOR PEARSON: My name is
10 B.J. Pearson and I am a supervisor from Plumas County,
11 District 1. I was sort of tempted to say me too. She
12 said it pretty well for the people of Plumas County, but
13 there are some other areas I'd like to get into.

14 When I first heard about this proposal, I talked
15 to several people in the county. And at first, because
16 I'm known now and again for practical jokes, they thought
17 this was a practical joke.

18 They really didn't believe in Plumas County
19 knowing that we have 1.6 million acres and 20,000 people
20 in the whole county, that any responsible government
21 agency would be seriously considering banning burn
22 barrels.

23 First, it's thought by most of the people in
24 Plumas county that burn barrels are beneficial by
25 containing the way we burn our materials.

1 And second, they could not see how that if we're
2 to be governed under the Constitution that the majority of
3 the people are to make the rules that we'd abide by and 90
4 percent of Plumas county at least does not want this, why
5 we wouldn't be entitled to an automatic exemption.

6 Well, I told them, and I'm telling you that
7 freedom is not easily to come by nor is it easy to keep,
8 and so we have to come to these meetings, we have to
9 appear in front of this body and we have to allow you to
10 know that we cannot live with this regulation for two
11 reason.

12 First, we don't have how we're going to enforce
13 it, nobody has ever told us that. We don't know what the
14 penalties are going to be. And last, and this is very
15 important, and I would like for you to seriously consider
16 this, my client, as an elected official, is the people of
17 Plumas County. That's who I answer to.

18 And the vast majority of the people in Plumas
19 county, almost unanimous hot only say they do not want
20 this regulation, they say they won't abide by it.

21 Now, I'm sure you understand that at some point
22 when you continue to pass rules, and it gets to the point
23 where the vast majority of the people no longer will
24 tolerate your regulations, we've got a serious problem.

25 And I would like to submit that we're getting

1 close to that problem in California. I would like for
2 Plumas county to be added to the list of categorical
3 exemptions. I don't think that we pose a problem to
4 anybody. We've got 1.6 million acres. We've only got
5 20,000 people. They don't want this rule. They won't

6 abide by this rule. I have no idea who's going to come up
7 thereAs burn barrel cop and try to enforce this rule.

8 I ask you to consider just some common sense and
9 back away from trying to force the rural counties, who
10 cannot afford it, to comply with this regulation. They
11 don't want it. They won't live by it. Please back away
12 from your regulation.

13 Thank you very much.

14 CHAIRPERSON LLOYD: Thank you.

15 Mr. McKinnon.

16 BOARD MEMBER McKINNON: I'm looking at the map
17 and Modoc certainly looks like most of it is exempt. How
18 about Plumas? There's not really an overlay of county
19 lines that I can see from this distance.

20 It's not Placer, it's Plumas. Our list says
21 Plumas.

22 BOARD MEMBER RIORDAN: It's Plumas.

23 BOARD MEMBER McKINNON: So there's some urban
24 areas that are not exempted, but much of it is exempted in
25 Modoc.

1 PARTICULATE MATTER ANALYSIS SECTION MANAGER

2 MAGLIANO: Modoc is right here, so it's almost all of
3 them.

4 BOARD MEMBER McKINNON: So it's almost all
5 exempted. Thank you.

6 CHAIRPERSON LLOYD: Thank you.

7 What about the issue of enforcement and the -- is
8 that to be worked out?

9 EXECUTIVE OFFICER KENNY: What we were trying to
10 do is we actually delayed the implementation date, As way
11 of providing for greater public education. And from an
12 enforcement standpoint, the Health and Safety Code does
13 provide for penalties for noncompliance. But we were
14 hoping to work with the local fire official and with the
15 local air pollution control officers.

16 CHAIRPERSON LLOYD: Thank you.

17 Mark Leary, Integrated Waste Management Board.
18 Barbara Lee and Dr. Wallerstein.

19 Thank you, Mark, for coming today.

20 MR. LEARY: Good morning Chairman Lloyd and
21 members of the Board. My name is Mark Leary. I'm the
22 Executive Director of the Integrated Waste Management
23 Board. And as your staff As portrayed we've been actively
24 involved in these proposed regulations. And what I'm up
25 here today to do is to commit our support as you move

1 forward in the implementation of these regulations to take
2 advantage of the Board's resources, and we'll commit those
3 resources to your implementation, because, in fact, we
4 support the philosophy behind these regulations.

5 We particularly are enticed and supportive of the
6 proposed modifications of your staff. We think,
7 particularly, putting the implementation date out to
8 January 2004 will give us a good 18 months to work with
9 our common stakeholders, the jurisdictions who are
10 affected by this Regulation and assist them in not only
11 waste disposal alternatives, As the staff portrayed it, but
12 alternatives to disposal for those rural jurisdictions,
13 because that's mainly what the Waste Board is all about,
14 of course, is finding alternatives to disposal and finding
15 productive uses for those materials in the recycling
16 environment.

17 So, again, we commit our support and look forward
18 to our positive working relationship.

19 CHAIRPERSON LLOYD: Thank you very much, Mark.
20 We appreciate you coming.

21 BOARD MEMBER RIORDAN: Mr. Chairman, may I just
22 ask a question of this gentleman.

23 We all know that we have responsibilities in
24 recycling and taking as much waste and putting it into
25 recycling programs to save our landfills. Do these

1 smaller counties have the same responsibility that the
2 larger counties do, the more urban counties?

3 MR. LEARY: A short answer is that AB 939 passed
4 in 1989, defined a 50 percent diversion rate. The statute
5 also defined an alternative for rural jurisdictions to
6 seek a different rate than the 50 percent to seek a
7 reduction in that diversion rate. So rural jurisdictions
8 can appeal to the Board to seek a reduction in the
9 recycling requirement because of the nature of the rural
10 waste management environment in that it's difficult to
11 final those alternatives.

12 We are working with those jurisdictions, both the
13 populated jurisdictions, as well as the rural
14 jurisdictions throughout the State, to meet that mandate.
15 And we have assisted in some jurisdictions in putting an
16 application together to reduce their diversion mandate for
17 50 percent to something less, in consideration of the
18 difficulties that these jurisdictions face in managing
19 their waste materials.

20 BOARD MEMBER RIORDAN: Would it still fall say
21 some where between 25 percent and 50 percent? Have you
22 lowered any beyond 25 percent?

23 MR. LEARY: I believe some jurisdictions have
24 sought reductions beyond 25 percent, and I believe they've
25 been granted, but I hesitate to quote. Let me follow up

1 in writing to the Chair and to the Members of the Board to
2 confirm that for you with copies to staff.

3 BOARD MEMBER RIORDAN: Thank you.

4 CHAIRPERSON LLOYD: Thank you, Mark.

5 Thank very much, indeed.

6 Supervisor Forester from Amador county has
7 arrived, so I'll take the Supervisor, and then Barbara.

8 AMADOR COUNTY SUPERVISOR FORESTER: Good morning.
9 Thank you for taking my testimony today. I'm from Amador
10 County. I really can't believe we're committing this kind
11 of money and staff to a problem which I consider minimal
12 compared to the impact of Amador County with is coming
13 from San Francisco, Sacramento and the more urban areas of
14 the State.

15 We have an inversion layer that comes in and
16 impacts us far more severely than any impact that's going
17 to come from burn barrels. I would ask you to take that
18 more seriously than what we're booking at today.

19 Burn barrels have been a part of life for people
20 in the rural counties. I'm not saying that there aren't
21 corrections we can make. We can educate the people. If
22 you're going to help us at all, help us with the dollars
23 for education.

24 Right now, we have a program with our local air
25 district where we do educate, we could do a better job if

1 we had more dollars put into that. Why spend the dollars
2 on enforcement and regulation on burn barrels when we
3 could be taking it and putting it into education to help
4 our people understand the rules more clearly.

5 And I think the majority of the people understand
6 the rules and do abide by it. Most people know that
7 they're not supposed to burn plastics and thinks of that
8 nature.

9 The other impact is burning the material,
10 cardboard and things like that, if we have to take it to
11 the landfill, you're going to impact, one, our roads and
12 the use of the roads, the safety factor that goes into
13 that.

14 Our landfill in Amador County, which is already
15 in trouble because it has too much waste going into it, is
16 located on an intersection of Buena Vista Road and Highway
17 88 which is a major intersection. Just to show you the
18 safety impacts, my mother is sitting in Amador county
19 hospital right now because she was broadsided by a car
20 coming off Buena Vista Road where the landfill is located.

21 That's just one case, but it hits home with me,
22 because she's going to be in the hospital for about three
23 weeks. That's the intersection of our landfill road.

24 That's a big safety factor. You're going to
25 require a lot of elderly folks who burn their things and

1 follow the rules at their home to travel to the landfill.

2 Our county is dominated by an elderly population.

3 Now, all those people are going to have to travel
4 to the landfill instead of being able to burn, since we're
5 one of the counties which is not exempted.

6 We have specific areas of our county in the
7 incorporated cities, which should not be allowed to burn.
8 But I think the rural areas of our county should be
9 exempted. We should have that say from our local Air
10 Board, and we'll work along with you on the education.
11 But we believe that our people should be allowed to use
12 that right that they have to burn and use those burn
13 barrels at their homes legally and not exempt them from
14 the other items, plastics and things that they should be
15 taking to the landfill.

16 We would ask you to just help us with the funding
17 of education and we appreciate your support in that
18 effort, but please don't force us to go under some
19 guidelines that to us appear ridiculous. Help us to stop
20 the inversion layer and make more stringent regulations on
21 San Francisco and the urban areas.

22 Thank you very much.

23 CHAIRPERSON LLOYD: Thank you, Supervisor.

24 Just one point of clarification, the pollution
25 that comes from the Bay Area and other areas there, that's

1 sort of the urban smog, I think this is focused on the
2 toxics. As toxic control measures and clearly dioxin is one
3 of the issues that we're looking at.

4 And also, we've got some testimony here from one
5 of the water districts. And I've heard it from my
6 colleague, the Chairman of the Water Board, to say that
7 anything that gets into the air, so dioxin gets in the air
8 from things like burn barrels, do deposit. They also then
9 become a water quality issue.

10 But I appreciate the point you raise. This is
11 clearly a very difficult issue for us. I just want to
12 clarify the difference between this particular measure and
13 the other transport of typical smog.

14 AMADOR COUNTY SUPERVISOR FORESTER: They are two
15 separate issues. I wish we could have had Supervisor
16 Guttman who's a chemist from Sierra County. He refuted
17 everyone of those points at one of our RCRC meetings.
18 Unfortunately, because he lives in Sierra county and they
19 are exempted, he's not here today, but he did refute
20 everyone of those points with no answer from your ARB
21 staff.

22 CHAIRPERSON LLOYD: Okay.

23 BOARD MEMBER RIORDAN: Mr. Chairman, if I might,
24 just back to recycling for a moment. Do you have a
25 recycling program?

1 AMADOR COUNTY SUPERVISOR FORESTER: We have a
2 recycling program at our landfill where people can go --

3 BOARD MEMBER RIORDAN: At the landfill.

4 AMADOR COUNTY SUPERVISOR FORESTER: At the
5 landfill and PEOPLE Within the communities have a number
6 of different recycling facilities. I, myself, take in
7 cans and plastics in our recycling facility in Ione, in
8 the City of Ione.

9 BOARD MEMBER RIORDAN: Do you have any transfer
10 stations in your county?

11 AMADOR COUNTY SUPERVISOR FORESTER: We do have
12 two transfer stations.

13 BOARD MEMBER RIORDAN: Are those working well?

14 AMADOR COUNTY SUPERVISOR FORESTER: They are
15 working very well. And especially we have, on a monthly
16 basis, people can take in their toxic waste paints and
17 things like that into the landfills and drop them off for
18 no charge.

19 BOARD MEMBER RIORDAN: Thank you.

20 AMADOR COUNTY SUPERVISOR FORESTER: Thank you
21 very much.

22 CHAIRPERSON LLOYD: Mr. McKinnon.

23 BOARD MEMBER McKINNON: Sir.

24 CHAIRPERSON LLOYD: Supervisor.

25 BOARD MEMBER McKINNON: Many of us on this Board

1 are concerned about transport from the Bay Area, in
2 particular. And something you should note is that we are
3 barred by law, by statute from doing everything we need to
4 do there. And that's a conversation you should also have
5 with your legislator, because there's a hole carved out
6 for the Bay Area that we would like to get to. Just so
7 you know.

8 AMADOR COUNTY SUPERVISOR FORESTER: I can believe
9 that, since a majority of the Legislature come from very
10 urban areas.

11 BOARD MEMBER McKINNON: Well, that's another
12 subject.

13 (Laughter.)

14 BOARD MEMBER McKINNON: We have population based
15 reapportionment. I happen to, in my other activities,
16 represent timber mill workers. And I have a very clear
17 understanding of how populated areas sometimes get a
18 different view of what's really happening in rural areas.

19 So don't assume that people from populated areas
20 don't have some understanding, whether it's cattle
21 ranching or forestry operations. I've spent lots of time
22 working and supporting people's right to work in those
23 industries.

24 I'm not convinced that that translates, in my
25 mind, to being able to poison your neighbor with dioxins.

1 People burn trash, okay. We both know that. Let's be
2 honest about it.

3 So, if there's a better way to do this, if it
4 means more landfills or whatever, I'm interested in all
5 the possibilities, but people burn trash, and that smoke
6 hits their neighbors. And I think we've got to give that
7 some thought.

8 AMADOR COUNTY SUPERVISOR FORESTER: Let's define
9 the trash, what type do they burn, and go with the
10 education rather than the regulation that government is so
11 famous for.

12 I just have a hard time looking around the room
13 here at the number of staff committed to this and not
14 being able to realize that education is the key to this,
15 not enforcement, not regulation. You can put these
16 regulations on it, but if enforcement is another item.

17 You're going to have hit and miss regulation in
18 these counties because the dollars aren't going to be
19 there to regulate, but give us the tools to educate the
20 people and I think we'll do a far better job in helping
21 you meet your goal.

22 BOARD MEMBER McKINNON: Okay.

23 CHAIRPERSON LLOYD: Thank you, Supervisor.

24 AMADOR COUNTY SUPERVISOR FORESTER: Thank you
25 very much.

1 CHAIRPERSON LLOYD: Barbara Lee, Dr. Wallerstein,
2 Bonnie Holmes-Gen.

3 MS. LEE: Good morning, Mr. Chairman and members
4 of the Board. My name is Barbara Lee and I'm the Air
5 Pollution Control Officer in northern Sonoma county. I'm
6 actually here before you today on behalf of the California
7 Air Pollution Control Officers Association to express our
8 support for reducing public exposure to harmful emissions
9 from garbage burning in burn barrels.

10 As you will recall last June, the membership
11 asked the Air Resources Board to move forward to address
12 this important air quality and public health issue. We
13 also asked ARB to consider the circumstances in the more
14 rural parts of California, and ensure that efforts to
15 reduce exposure to burn barrel emissions did not create an
16 undue hardship in those rural parts of the State.

17 The staff of the ARBAs done a tremendous job in a
18 very short timeframe making themselves available
19 throughout the State to work with stakeholders, hear our
20 comments and seek solutions.

21 As an association, CAPCOAAs worked with its
22 members to identify and understand the needs of individual
23 districts and to develop consensus solutions. Our goal
24 has been to achieve real reductions in public exposure to
25 harmful air pollutants, while continuing to recognize the

1 need for local flexibility.

2 To further this effort, our members developed and
3 approved a consensus position on regulating burn barrel
4 use, and we believe that this position focuses the efforts
5 of the ARB and the local districts in areas where the
6 greatest benefit will occur.

7 It provides the time needed for effective
8 implementation, and it allows flexibility for areas that
9 are not currently able to eliminate burn barrel use, while
10 providing a mechanism to educate the public in those areas
11 and to reconsider the circumstances as the population of
12 the area changes.

13 Most of the points of our consensus position have
14 been incorporated into the proposed regulation that's
15 before you today. The only point that we supported that
16 you did not incorporate into your proposed regulation was
17 our request that once exemptions and applicability have
18 finally been determined on the basis of population density
19 and the other exemption requests that have been submitted,
20 that the Air Board hold a public hearing to formally
21 identify the areas that are subject and the areas that are
22 exempt to make sure that there is not some significant
23 controversy outstanding. And we would like to reiterate
24 that request as part of our testimony today.

25 I also need to point out that there have been

1 several changes to the proposal in the last couple of
2 weeks that go beyond the consensus position that we
3 adopted. And I want to make sure that you do not construe
4 my testimony now as being supportive of those changes. I
5 cannot take a position on those changes, because the
6 membership has not had a chance to consider them and vote
7 on them.

8 We did provide a complete written statement of
9 our position to ARB staff. Our consensus position
10 represents a considerable amount of compromise by
11 individual members districts. Some districts would have
12 gone further with the ban, while others still have strong
13 reservations about moving ahead.

14 While not everyone was happy with all elements of
15 the compromise, our members felt that the result was
16 acceptable. Nonetheless, some districts will be
17 addressing you today to convey their individual
18 interests. As always, we encourage you to listen carefully
19 to their concerns.

20 We believe it is our diversity that makes
21 California such a unique and wonderful place. And it is
22 our ability as regulators to recognize that diversity that
23 makes us effective in our request to protect air quality
24 and public health.

25 In closing I would like to express our gratitude

1 for the support given to CAPCOA by this Board and by the
2 ARB staff in moving ahead on our request of last June, and
3 the substantial resources you committed to this effort
4 over the last several months.

5 We look forward to working with you and your
6 staff in the future on this effort and other efforts.

7 Thank you very much.

8 CHAIRPERSON LLOYD: Thank, Barbara.

9 I think we have a question, Ms. D'Adamo.

10 BOARD MEMBER D'ADAMO: Ms. Lee, could you or Ms.
11 Terry identify the significant areas in which the staff
12 proposal differs from the consensus based proposal that
13 CAPCOA supports.

14 MS. LEE: The basis of our consensus position was
15 the concept that areas with a population density of less
16 than three people per square mile should be exempt from
17 the regulation.

18 And that in areas where the population density is
19 between three people and ten people per square mile, the
20 area should be able to request an exemption from the
21 regulation if two criteria hold true.

22 And that would be that there is a distance to the
23 nearest landfill of 15 miles or greater or the local fire
24 chief has found that the use of burn barrels is necessary
25 for a fire safe consideration.

1 We also had some other criteria regarding the
2 issuance of a written permit to use the burn barrel or the
3 provision of some alternative mechanism for disseminating
4 information to people who would be using burn barrels, so
5 that they would be able to consider whether or not this
6 was something that they really wanted to be doing based on
7 the health effects.

8 We asked that the Board of a District wishing to
9 have an exemption be required to hold a public hearing,
10 and in that public hearing consider the risks associated
11 with the use of burn barrels and articulate the basis for
12 the board deciding that the use of burn barrels was still
13 necessary.

14 We also provided in our consensus position some
15 requested time frames for the provision of information to
16 the districts, and from the districts to ARB in order to
17 support a smooth determination of applicability and
18 enforcement.

19 BOARD MEMBER D'ADAMO: Could staff respond and
20 perhaps give the justification for the changes?

21 PARTICULATE MATTER ANALYSIS SECTION MANAGER
22 MAGLIANO: This is Karen Magliano. Two of the primary
23 differences between what Ms. Lee presented and what we
24 have in staff's modified proposal, one, that in the
25 exemption areas under our modified proposal, you would

1 only be allowed to burn paper and cardboard.
2 So in air districts that had currently been
3 allowed to burn plastics and other garbage, that would no
4 longer be allowed even in the exemption areas.

5 The other change was that we have included a
6 provision to subdivide some of the census zip codes,
7 because they are so large in some cases, to allow the
8 districts to look at how population density may be
9 different throughout the zip code itself.

10 We also did not include the provision for being
11 greater than 15 miles from a landfill and essentially
12 provided that discretion to the air district to make a
13 determination that they needed to continue burning paper
14 and cardboard within their exemption areas.

15 CHAIRPERSON LLOYD: Mr. Calhoun.

16 BOARD MEMBER CALHOUN: Ms. Lee, couldn't the
17 local districts do, in effect, what you're asking the
18 State to do, in terms of banning burning? And if that's
19 true, why haven't you done it?

20 MS. LEE: Well, certainly the local districts
21 have the authority to establish regulations. The
22 districts do not specifically have the authority to
23 establish air toxics control measures that the Air Board
24 has.

25 In some instances, we believe it is more

1 efficient and effective where the impacts of a particular
2 activity are recognized and are not going to vary
3 throughout the State. And by this I mean, that exposure
4 to dioxins is a serious health consideration. And if the
5 exposure occurs, it doesn't really matter where you're
6 living when the exposure occurs.

7 This is not a circumstance where you're dealing
8 with local smog issues where there is a significant
9 variation throughout the State in the sources that are
10 comprising the pollution problem, the degree of the
11 pollution problem, that sort of thing.

12 So our feeling was that this was a significant
13 public health concern, that the best way to address it was
14 through an Air Toxic Control Measure to reduce the
15 exposure.

16 That being said, there are a number of districts
17 that have gone ahead and made this move on their own.
18 There are many others who are contemplating this move.
19 Sometimes, it is more effective to have us all move
20 forward together. And in support of that, the membership
21 voted unanimously last may to request you to do this. And
22 I believe at that meeting we had all but three or four of
23 the local air districts present.

24 BOARD MEMBER CALHOUN: I can understand why Mr.
25 Wallerstein is supporting this particular regulation,

1 because burning in these incinerators have been outlawed
2 in Los Angeles County for almost 50 years.

3 And I'll just drop this. I won't pursue it
4 anymore.

5 MS. LEE: I appreciate your concern there. I can
6 say certainly on behalf of my own district, and this is
7 not on behalf of all districts, but merely northern
8 Sonoma, we are in support of this proposal. We had
9 intended to move forward with the ban. We're one of the
10 areas that allows the burning of nonplastic. We allow
11 paper and cardboard and vegetation to be burned. Our
12 intent had been to move forward regardless of your action.

13 And I think you'll hear from a number of the
14 other rural districts that are in support of the proposal.
15 You will also hear from rural districts that have concerns
16 about this proposal. And I think the diversity of the
17 opinion largely reflects the composition of the people
18 living in the area, and it is the job of the Air Pollution
19 Control Officer to represent the position of their board.
20 And the Board represents the feelings of the people, and
21 that's why you will hear the diversity of opinion.

22 CHAIRPERSON LLOYD: I compliment you coming
23 forward in representing CAPCOA, when I see the list of
24 people here who are members who are going to be here.

25 Do you have any idea, or does the staff have any

1 idea, how many burn barrels are we talking about
2 statewide, approximately?
3 PARTICULATE MATTER ANALYSIS SECTION MANAGER
4 MAGLIANO: We've surveyed the air districts, and
5 approximately we came up with about 100,000 burn barrels
6 statewide.
7 CHAIRPERSON LLOYD: What are we going to do with
8 the burn barrels when they're not used?
9 (Laughter.)
10 MS. LEE: They make excellent planters.
11 (Laughter.)
12 CHAIRPERSON LLOYD: Okay.
13 MS. LEE: I thought you were going to ask me if I
14 had life insurance.
15 (Laughter.)
16 CHAIRPERSON LLOYD: Thank you.
17 Dr. Wallerstein, and then Bonnie Holmes-Gen,
18 James Hirschinger, and Richard Davis.
19 DR. WALLERSTEIN: Good morning, Chairman Lloyd
20 and members of the Board. I'm Barry Wallerstein. I'm the
21 Executive Officer at the South Coast Air Quality
22 Management District, I'm here to present our staff's
23 comments.
24 We are home to Los Angeles County. We're most
25 often thought of as home to the metropolitan Los Angeles

1 area, and we do have, in our district, about 40 percent of
2 the State's population. However, we're also home to
3 communities in the San Bernardino Mountains as we're also
4 the home of the Coachella Valley, so we do have rural
5 portions of our district.
6 I'm here today to strongly support your approval
7 of the proposal that is before you. I also support the
8 CAPCOA proposed amendments. I want to point out and
9 emphasize that the proposal that you have before you has a
10 tiered exemption structure. You not only have some of the
11 very rural areas that are automatically exempt, based on
12 the current population statistics, you have an ability for
13 other low population areas to opt in to an exemption. And
14 the opt-in process seems to me to be very fair and not
15 burdensome.
16 Mr. Calhoun, the real reason that I'm here today
17 is because when I first started delving into this topic as
18 a member of CAPCOA and I saw the risk estimates that your
19 staff has produced, and I compare those to large
20 industrial sources in urbanized areas are frankly almost
21 to the total contribution from our stationary sources in
22 south coast, and see how these levels from the burn
23 barrels mirror even potentially exceed that of what we
24 find in our most urbanized areas, as matter of public
25 health and environmental protection, and frankly,

1 reflective of the 20-year plan that your staff just

2 described to you in the previous agenda item, I think it's

3 urgent that the State move forward on this item.

4 And with that, I would urge your approval.

5 CHAIRPERSON LLOYD: Thank you very much, Barry,
6 for coming.

7 Any questions?

8 MS. HOLMES-GEN: Good morning. Bonnie Holmes-Gen
9 representing the American Lung Association of California.

10 And I am pleased to be here today in support of the
11 proposal before your board today.

12 The position of the American Lung Association of
13 California is that open burning of garbage poses a health
14 hazard and is a practice that must be stopped. As you are
15 aware, residential waste burning causes dioxins and other
16 potent persistent hazardous chemicals not to mention the
17 fine particle matter, which we're greatly concerned about.

18 Communities throughout California are adopting
19 ordinances regulating wood smoke emissions due to the
20 severe health problems posed by exposure to wood smoke
21 pollution. And pollution from barrel burning and backyard
22 burning is so much more hazardous due to the dioxins and
23 other toxics emitted into the air.

24 And because there are no emissions controls,As
25 you've just heard, the toxic risk from barrel burning

1 mirrors the risk of industries in urban areas. This is a
2 very serious risk that must be controlled.

3 As you know, there are several counties and air
4 districts that have already banned residential burning
5 successfully, and the bans have resulted in substantial
6 improvement to the environment, health, fire, safety and
7 the quality of life in communities around this State.

8 Smoke and emissions from backyard residential
9 burning are unhealthy for everyone, but can cause severe
10 reactions in residents that have sensitive lungs. AndAs
11 your presentation earlier noted, that we are all in a
12 sensitive groupAs some point in our life, whether we're
13 children, whether we are the elderly, whether we have an
14 asthma condition or other respiratory condition, we all,
15 at some point may, fall into a sensitive category where we
16 are specially sensitive to the impacts of these burns.

17 At the Lung Association, we receive many
18 complaints from people affected by air pollution from many
19 sources, including burn barrels. We receive calls from
20 people who say they feel like they are prisoners in their
21 own homes. They fear going outside because they fear the
22 health effects of breathing in toxic fumes. We've
23 received many letters and communications from individuals,
24 and we've passed some of them on to your staff and we can
25 certainly pass others on to you, but it certainly is

1 greatly disconcerting to us that people feel like they're
2 prisoners in their own homes because of the toxic effects
3 of these burns.
4 We support the strongest restrictions possible on
5 burn barrels, and the strongest restrictions on any
6 exemptions that are allowed. We are concerned about some
7 of the revisions that have been made recently. The
8 extension of the effective date and the provision to
9 revisit exemptions every ten years. We think that's too
10 much time. We would encourage you to look to go back to a
11 four- or five-year time period to revisit those
12 exemptions.
13 And we do support the recommendations for
14 permitting exemptions and requiring permits for any
15 exemptions and accompanying any exemptions with a very
16 strong educational program and materials describing the
17 health impacts of open burning.
18 The air of our community is a valuable resource
19 that must be protected and we commend the Air Resources
20 Board for its leadership and urge you to move ahead and
21 ban this unhealthy practice.
22 CHAIRPERSON LLOYD: Thank you.
23 Mrs. Riordan.
24 BOARD MEMBER RIORDAN: Bonnie, I wanted to ask,
25 two of the supervisors brought up what I think is a very

1 good point, which is an education program, asking the ARB
2 to participate. And I know our staff feels very strongly
3 that we do need to educate people.
4 Could the Lung Association also join us in that
5 effort. I think you would have maybe some resources that
6 could be very helpful to us at this time, and I'm sure you
7 have a number of members in the northern areas, but we
8 need to do some real outreach to people. Would you be
9 willing to commit to that?
10 MS. HOLMES-GEN: Yes, we certainly would enjoy
11 being apart of that and helping in the educational
12 process.
13 BOARD MEMBER RIORDAN: I think that would be very
14 helpful to this program.
15 Thank you.
16 CHAIRPERSON LLOYD: Thank you very much.
17 James Hirschinger, Richard Davis, Cynthia Cory.
18 DR. HIRSCHINGER: Good morning. I'd like to
19 thank the Board for allowing me to come testify this
20 morning. My name is Dr. James Hirschinger. I'm here to
21 address what I consider to be the ultimate secondhand
22 smoke, and that is the burn barrel.
23 I'd like to compliment the staff on the
24 tremendous report that they did that was eye opening, very
25 sobering when I first read this report. I'd also like to

1 thank them for the way that they conducted the public
2 hearings.

3 I was amazed at the public hearing in Placer
4 County of the passion that people had to keep their burn
5 barrels. I would like to assure you that I am equally as
6 passionate to do something about it.

7 Twenty years ago my wife and I bought an acre of
8 land in rural Loomis and spent our life building a place
9 that we wanted to enjoy. We opened the windows on a nice
10 morning, there's fairly clear air outside, my neighbor
11 about 100 yards away cranks up, fires up his burn barrel.
12 Immediately the air comes into our house and we become
13 prisoners in our house as the last speaker said. It's
14 affected us. It's affected my wife's health. It's
15 stifling. It's got to be changed.

16 I'd like to support this ATCM. I think it's
17 needed. It needs to be implemented. I'd like to have
18 it as original implementation time, but I understand those
19 kind of restrictions.

20 We live on an acre with 40 oaks. We have not
21 burned for ten years. Education needs to be apart of this
22 process. We use a chipper program, that the County comes
23 out and will chip our wood for us on site. That needs to
24 be expanded. It needs to be promoted. We recycle, and we
25 use other methods to get rid of what we consider some

1 things that are biodegradable.

2 Education, as said, is critical. I'd like to
3 recommend that there be other things done besides the burn
4 barrel. I think that's only the tip of the iceberg. Open
5 burning is also an issue. I think there need to be new
6 restrictions on that. The Loomis basin is becoming
7 intolerable. It's going to affect the health of the
8 children, the psychological impact of people living there
9 and the economy ultimately.

10 I would recommend that they promote and support
11 the expansion of the chipper programs, that they promote
12 and support a green waste program in the county to help
13 people to find ways to deal with getting rid of their
14 waste. We understand where people's concerns are. The
15 government has to do something to help them.

16 And finally, I think that if people are not
17 burning outside, they're going to take their garbage and
18 things and burn it in their stoves inside, including
19 Christmas paper, which is toxic to wildlife and birds.

20 There needs to be a way for business and industry
21 to provide incentives for people to upgrade their
22 wood-burning stoves, so that they can find a way to lessen
23 the pollution that's out there.

24 So in summary, I would like to urge you to
25 support this and to make sure that we enjoy California and

1 the air that we would like to have healthy for all of us.
2 Thank you.
3 CHAIRPERSON LLOYD: Thank you very much for
4 coming.
5 Questions, comments?
6 Richard Davis, Cynthia Cory and David Conway.
7 MR. DAVIS: Good morning. I'm Richard Davis from
8 Granite Bay. And I'm here to give you my support for the
9 burn barrel ban. One of the main reasons that -- we live
10 in a basin there in Granite Bay and the air doesn't move
11 out very well, so anything we can do to eliminate burning
12 is going to benefit us.
13 And Mr. Calhoun mentioned something earlier about
14 why doesn't the local districts try to do something about
15 it. And I've been working with the fire district and the
16 air pollution control district at Placer County for over
17 two years to try to get something done. But it always
18 ends up a political issue. So something has to be done at
19 a higher level. They just don't want to seem to take the
20 responsibility or the blame.
21 Like I say, I support this ban. I just think
22 that perhaps you don't far enough. I'd like to see you go
23 on and include all open burning in California. How do you
24 eat an elephant? One bite at a time.
25 Thank you very much.

1 (Laughter.)
2 BOARD MEMBER CALHOUN: Thank you.
3 CHAIRPERSON LLOYD: Thank you very much.
4 MS. CORY: Chairman and Members, Cynthia Cory
5 from the California Farm Bureau. I want to thank your
6 staff, first off, for all the cooperation I've received in
7 working with them on this issue. They included me into
8 their working group and I appreciate that.
9 And I hope they have feel that I was cooperative
10 too because I did try to advertise the workshops as much
11 as possible and put an article about this in the Ag Alert,
12 which I think did draw a lot of attention to the
13 workshops.
14 So I wish, you know, with all this cooperation,
15 Could say we're singing Koombiya here. We're close to it.
16 We're just a couple chords short of it.
17 CHAIRPERSON LLOYD: Feel free.
18 (Laughter.)
19 MS. CORY: We're not quite in harmony.
20 So what I'd like to do is just mention a few
21 concerns we have and then I'll offer an alternative,
22 because I'm not asking you to do nothing. And I have
23 submitted my comments in writing and hopefully you have
24 them.
25 First off, before I go into our concerns, since

1 I've been sitting here, I would like to -- some of the
2 questions that have come from the Board I'd just like to
3 make two comments on.
4 First, there was a question about Modoc being
5 exempt. And I would draw your attention to -- this page
6 has been very help to me and maybe would be helpful to the
7 Board Members. It's 4-2. It has a table in it in the
8 proposal. And it lists all the counties by county. It
9 shows you exactly what they can do in the county now. So
10 I think it's real important that the Board understand that
11 there's only six districts in the State that can burn,
12 what we call household garbage. The rest of what we're
13 talking about here is paper and cloth in nine of them.
14 But the majority of them we're just talking about paper
15 and vegetation.
16 And the other point was what Mr. Calhoun had made
17 about can't local districts do it? And I think, As we all
18 know, Politics has a lot to do with anything, but I think
19 that there needs to be political will. And I think I've
20 got in my proposal an answer to that, but I do think --
21 I'm a firm believer in local control and local decision
22 making.
23 One of the concerns I have is with the new
24 determination on the population control centers. And this
25 three to ten is based on, what I, guess is a square mile.

1 And then there is something to do with the zip code. And
2 I guess -- since I've only seen the summary, and even
3 from --
4 The presentation I wasn't able to tell exactly
5 what that means, but I do know that there are areas of the
6 State, let's take Alturas, for example, that where you've
7 got a whole zip code and you've got the City of Alturas,
8 which is going to have a population center that's
9 certainly going to be more than ten people per square
10 mile, but in that zip code you're going to have outlying
11 rural areas that are going to be 20 to 25 miles, they have
12 pretty big zip codes up there.
13 And so they would be affected by this. So I
14 just -- I want to make really clear how ever you go
15 forward with this three to ten per square mile, where does
16 this square mile start and how does it work with the zip
17 codes. Just doing the zip code, I'm not sure is -- I
18 think it needs a little bit more thought.
19 I think the majority of citizens, I'd like to
20 think so anyway, want clean air and will, you know, put up
21 the money if they're sure it's the right thing to do and
22 we're going to get a benefit from it. I think what we
23 have here, what I've seen from the rural members I talk
24 to, and you might wonder why the Farm Bureau is up here.
25 I know this isn't directed at farmers, but I do represent

1 a lot of people that live in the rural area, and they will
2 be affected by this.
3 And farmers are very aware of air problems,
4 especially as Ms. D'Adamo knows in the San Joaquin, we're
5 very aware of the air issues we're faced with and so we're
6 want to do our part.
7 But I think the case hasn't been made really
8 clearly here, and I think it has to do with part of the
9 modeling, and I understand risk assessment has to do with
10 computer modeling and that's 90 percent of it. But I'd
11 like to also draw your attention to, in the proposal, page
12 3-5, which is the only place I could find where they talk
13 about the testing that was done in California for this.
14 And as far as I can tell, as far as actual dioxin
15 testing, there was no testing done that had to do with
16 burn barrels. And where it was done, that's even close to
17 the rural areas was in Fresno, and they say it was not of
18 toxicological importance.
19 And I know I'm not an air scientist, but I just
20 think that it's important that if we're going to make this
21 fairly huge change for a number of people in California
22 that we've got the data that's specific to burn barrels,
23 and the situations that they're in, not incinerators in
24 LA, not U.S. EPA data where we've incorporated it using
25 California meteorological data, I'm talking about

1 measuring the emissions off of a burn barrel up in Modoc
2 county under real conditions.
3 Now, we've put a lot of money into outreach and I
4 appreciate that. And it would have been nice if we could
5 have put maybe a little bit of that money into real
6 testing. And I'm not saying test, test, test. I'm not
7 trying to stop the stuff by asking for a continuous test.
8 I'm just saying a little bit of actual real testing on the
9 real issue would have been productive.
10 So the other point I've got to make of concern is
11 illegal dumping. Our people are rural residents, and we
12 are concerned that \$100 to \$600 increased fee that they're
13 attributing to finding the waste service, there's going to
14 be a lot of poor rural residents that are going to
15 everything they can to avoid that. And unfortunately I
16 think they're going to dump it on a lot of my farmers'
17 lands, and they have a concern about that.
18 That's why I say local control, local decisions.
19 And that gets us to your proposal, which is a mandatory
20 five-year, every five years and that's a number I came up
21 with that kind of aligned with your review.
22 You can make it shorter or longer if you want,
23 but a five year review, at least, on every air district
24 that burns more than vegetation in the State. So this
25 would allow the people that apparently are scared to come

1 outdoors to come to their air boards, their local air
2 districts and make a lot of noise.
3 But in the meantime, these decisions should be
4 based on landfill capacities and risk emissions that are
5 done right there in that area based on that population.
6 It could also include waste service availability
7 in any parameter that would be important in that area.
8 It's going to be different.
9 And I think, Mr. Calhoun, As you were asking, why
10 haven't they very made it? And Ms. Lee is saying --
11 they're about to ban paper burning in northern Sonoma.
12 Well, I think that there are a lot of, if you
13 look at that chart, there's a lot of ordinances that are
14 made. Even northern California, half the time you can't
15 burn six months out of the year, because of the burn --
16 CDF telling them they'll can't burn anything.
17 So there's a lot of decisions that are made on a
18 local level and I think we need to capitalize that, so we
19 can take that local initiative with the mandatory review
20 and combine it with the public education that has been
21 proposed here which I full support.
22 And the money and the effort that's going to go
23 into that, and then you can educate the local people. If
24 there is concern about dioxins and barrel burning, these
25 people -- they'll listen to that and they'll change their

1 ways, but let that education go out. Let the testing go
2 with it. Let them see that it's a true problem, and then
3 go from there.
4 But I just think this is a public relation's
5 nightmare for you. We got the diesel retrofit. We
6 started out where we were going to retrofit every diesel
7 in the State, and you know how that went over and now
8 you're following it by, okay now we're going to take your
9 barrels.
10 And I understand that people might not understand
11 scientifically all the parameters and all the
12 ramifications, but I just want to make sure that we're
13 picking the right fight. And if you can use a carrot
14 instead of a stick, I would highly encourage it.
15 Thank you for your attention.
16 CHAIRPERSON LLOYD: I cannot let you get away
17 with just comparing this to diesel retrofit. I mean,
18 there's all sorts of differences.
19 MS. CORY: Now what I meant is the public
20 relations. When you first started out, the way it was
21 laid out to the State was, and I'm assuming if you meant
22 it or not, but the it got around to the coffee shops was
23 that every diesel engine in this State was going to be
24 retrofitted. And I know we're moving towards a more
25 realistic approach, but that's the way --

1 CHAIRPERSON LLOYD: We're moving towards a more
2 realistic approach based on sound science.

3 MS. CORY: Absolutely.

4 CHAIRPERSON LLOYD: So on the one hand you're
5 criticizing us for not sound science. In the other case,
6 we're using sound science and you're also criticizing us.

7 MS. CORY: No, now. What I'm saying is -- I'm
8 very supportive of what you're doing with the diesel
9 retrofit.

10 CHAIRPERSON LLOYD: Our ambition on diesel
11 retrofit was clearly to protect public health. As we moved
12 ahead with our sound science approach, based on
13 international retrofit committee, clearly we find, as you
14 know, and we appreciate your participating, we can't do as
15 much as we wanted. But I think in this case, I think it's
16 clearly apples and oranges.

17 MS. CORY: Well, I'm sorry, maybe I used the
18 wrong example. I was meaning in relation and in reference
19 to public relations in the way it kind of rolls out. But
20 I do question the science here.

21 CHAIRPERSON LLOYD: Since you're also a member of
22 the Diesel Retrofit Committee, maybe you can help Us
23 educate the public that we can't retrofit as many
24 engines as we would like. And obviously I know we're
25 working together to see how we can get some replacements

1 there.

2 MS. CORY: Oh, you know I'm there.

3 CHAIRPERSON LLOYD: I appreciate that. But I
4 would like to take you up on a question for the staff when
5 we talk about, and I think I asked staff this, the comment
6 you made, what basis, what technical basis, do we have for
7 some of the measurements here?

8 PARTICULATE MATTER ANALYSIS SECTION MANAGER

9 MAGLIANO: The basis is that the U.S. EPA has done testing
10 on burn barrels themselves. This testing was done in New
11 York, and they put together an average composition of
12 household waste.

13 We did look at how that compared to the typical
14 composition within California, and that compared quite
15 well in terms of the distribution between paper and
16 plastics and food waste and things like that.

17 CHAIRPERSON LLOYD: And I also think that Bob
18 Reynolds, when he speaks, they've done some work in that
19 area, I think, according to his letter.

20 We have some more questions.

21 BOARD MEMBER D'ADAMO: I'd like for staff to
22 comment on the zip code issue. Is there consideration of
23 perhaps subzip codes, or something that would address the
24 concern.

25 PARTICULATE MATTER ANALYSIS SECTION MANAGER

1 MAGLIANO: That's correct. Maybe we can also clarify what
2 we mean by a sense of zip code. Essentially, though, the
3 areas that are shown on that map there approximate a
4 postal zip code. And it was pointed out sometimes those
5 areas can be quite large.

6 In our proposed regulation all incorporated areas
7 would not -- could not be exempted from the regulations.
8 So what we've done is we've taken the and the area of all
9 incorporated areas out of the calculation of population
10 density for the remainder of the zip codes, so it does not
11 influence the population density in the surrounding
12 region.

13 ButAs we talked about earlier, because there may
14 be differences in population density throughout a census
15 zip code, we also have included a provision so that an air
16 district could subdivide that to better reflect those
17 variations within density.

18 CHAIRPERSON LLOYD: Mr. McKinnon.

19 BOARD MEMBER McKINNON: Yeah, I had the same
20 question, but I wanted to find out the Farm Bureau's
21 reaction to that method of -- it seems to me the point
22 here, we have letters from people that a burn barrel is
23 located underneath their apartment window and blows in
24 their house.

25 It seems to me the point is in population dense

1 areas, we need to deal with the problem. And I've worked
2 with the Farm Bureau and others on timber issues. I
3 realize that there are people that live out roads where
4 there's very little chance that they'll be exposed by
5 their neighbor.

6 But what we need to deal with is people who think
7 its their God-given right to burn their trash in their
8 backyard and have their neighbor breathe it. And so this
9 particular way of kind of framing up zip codes and
10 subdividing dense areas, I'm interested in your reaction
11 to that.

12 RESEARCH AND ECONOMICS STUDY CHIEF COREY: I'm
13 sorry someone was talking to my right when it was being
14 explained a little bit there.

15 As long as if there's flexibilityAs you're not
16 going to take great swaths of areas where you might have a
17 concentration of -- like Alturas. So if Alturas has a
18 waste service availability or someway to deal with their
19 trash, and then you've got 15 or 25 miles outside of
20 Alturas, where you'ge got one or two people per square
21 mile, but they're not going to get included in that, if
22 that's what you're assuring me of, I think that's the
23 direction I was trying to point to.

24 BOARD MEMBER McKINNON: Does that match up?

25 PARTICULATE MATTER ANALYSIS SECTION MANAGER

1 MAGLIANO: That is in deed correct. If you look at the
2 map here there's a dot for Alturas and then the rest of
3 the areas are either in the automatic or discretionary
4 exemptions areas.

5 MS. CORY: Okay.

6 CHAIRPERSON LLOYD: Thank you.

7 Larry Greene and then David Conway and Steven
8 Speckert. I guess Larry you have time constraints.

9 MR. GREENE: Thank you very much for taking me.

10 I'm Larry Greene. I'm the Air Pollution Control Officer
11 at the Yolo Solano Air Quality Management District. I'm
12 here to speak in support of the position that has been
13 developed, a very difficult position, very difficult
14 negotiations for quite a long time, to get to this point.

15 It's been difficult for the air districts to come
16 to a consensus position. And even with that, we did have
17 some people who were willing to come to a consensus
18 position. And I really appreciate that, but still have
19 some concerns for their local residents. And they will be
20 here to speak to those today. And I think that the Board
21 should certainly listen and honor those requests, too.

22 I appreciate the staff's work, because we started
23 out thinking that this was going to be pretty easy and it
24 hasn't been pretty easy. It's been very difficult.

25 As you see today, a lot of people believe it's

1 their God-given right to do their burn barrel. My
2 district bans burn barrels. We don't allow those in my
3 district. Does that mean I don't get complaints? No.

4 When we get complaints, we go out and investigate
5 them. And I will tell you that because we have a ban in
6 my district, it certainly makes it easier to go out and
7 take care of the problems.

8 I've had some really serious discussions with
9 residents in my district who have been impacted with burn
10 barrels. And I wish I could have you listen to a couple
11 of those, because they believe it's their God-given right
12 not to have to deal with the burn barrel and not to have
13 those toxins put in into their bed rooms and into their
14 houses and into their communities.

15 I think this is a good compromise. I think it
16 truly represents the people out in the rural areas that
17 don't have options, and it gives them a way to deal with
18 the problem. And I think it truly deals with those cases
19 where people are being impacted and don't feel like they
20 have the strength, the right or the ability to deal with
21 that smoke impact in their homes.

22 So we support the position that the staff has
23 brought forward to you in the Yolo Solano district. And,
24 again, I commend everybody for all the hard work that's
25 come forward.

1 CHAIRPERSON LLOYD: Thank you very much, Larry.
2 Any questions?
3 Thank you.
4 Dave Conway, Steven Speckert, Bob Barkhouse.
5 MR. CONWAY: Hello, Mr. Chairman and Members of
6 the Board. My name is David Conway. I'm here
7 representing the Mariposa County Air Pollution Control
8 District Board. And you'll find in your packet at letter
9 number 59 from the Chairman of our Board.
10 Some of the key points that our Board wants to
11 make is that they understand this issue of dioxin
12 generation. They also understand the need to control
13 airborne toxics, but they also understand that we're a
14 small rural county, and we have very large open spaces,
15 and some small pockets of population centers within those
16 open areas that are within the same zip code.
17 So I'm going to go back to the zip code issue
18 that you brought up. On page two of their letter, they
19 have two issues that they'd like addressed. And that is
20 one is to define the boundaries of relatively dense
21 population pockets, exceeding ten per square mile as has
22 been Identified by staff.
23 It is my understanding now that staff has
24 modified their original position to allow us to -- or
25 those districts to subdivide the district and, you know,

1 we're in favor of that.
2 The only thing I would like to point out is that
3 the letter addresses the cutoffAs being ten. And the
4 proposed regulation change addressed the change to be
5 three or less. The ten or less is already available for
6 an exemption request by the district. And we have some
7 zip code areas that, by nature of their just being in that
8 zip code, will be allowed to, or the district will be
9 allowed to request an exemption.
10 Right across the street from them is another zip
11 code, it will still be the same sparsely populated, less
12 than ten people Per square mile, but under the proposed
13 change, just across the street, they would not be allowed
14 to burn. And most of these areas are 20, 40, 160-acre
15 minimum parcels. We're looking at zoning issues within
16 our county too.
17 So if you're going to adopt this regulation with
18 the recommended changes of staff, we would encourage you
19 to change Item 5(e) on page four of the staff's prepared
20 proposed changes to the proposed regulation to the last
21 word to read ten versus three.
22 Additionally, our Board would like you to
23 encourage you to provide a vigorous program of education
24 regarding the dangers associated with burning products
25 other than paper and cardboard.

1 CHAIRPERSON LLOYD: Thank you very much.
2 Steven Speckert, Bob Barkhouse, Ken Smith.
3 MR. SPECKERT: Mr. Chairman and elected
4 supervisors. Thank you for giving me the opportunity to
5 speak on this issue. My name is Steve Speckert. I'm with
6 the Feather River Air Quality Management District, which
7 is comprised of Yuba and Sutter counties.
8 The Feather River Air Quality Management District
9 proposes this regulation for the following reasons:
10 In the staff report, it states that tests were
11 don on a waste stream by the EPA in New York. The waste
12 stream included paper, plastics, foods, food wastes,
13 textiles, glass, ceramics and various metals.
14 Based on these tests, it was determined that
15 approximately three residents per square mile created a
16 health risk of one in a million, which that number was
17 used to exempt people from this regulation. Our rules
18 currently ban the burning of garbage, except clean paper
19 and vegetative materials.
20 Therefore, we do not believe this study is
21 representative for our district. We do not believe that
22 this proposal should be adopted until a representative
23 study is done for each district.
24 In addition, this regulation would almost
25 certainly result in increased dumping on public and

1 private lands, which is a problem in our district.
2 Third, without significantly increased funding,
3 it would be hard for the district to enforce this
4 regulation because most burning occurs in rural areas.
5 Fourth, even if the regulation could be fully
6 enforced, there would be increased diesel and gasoline
7 emissions in rural areas, which could result in increased
8 cancer risk in those areas.
9 Because each district is unique, burn regulations
10 should be left to local control and be based on full
11 scientific and geographic data for those districts.
12 We urge you to vote against the proposed
13 regulation or at a minimum allow local air districts the
14 full discretion to adopt and enforce the local
15 regulations.
16 Thank you.
17 CHAIRPERSON LLOYD: Thank you very much. We've
18 got your letter here.
19 Questions?
20 Now we have Bob Barkhouse also from Feather
21 River.
22 MR. BARKHOUSE: We're ganging up on you.
23 (Laughter.)
24 MR. BARKHOUSE: I come here with two hats. One
25 I'm the Chairman of the Feather River Air Quality

1 Management District, and the other is that I'm Vice Mayor
2 of the City of Yuba City, so I have two axes to grind
3 here.

4 You heard Mr. Speckert's testimony. And I'm not
5 going to reiterate a lot of that. But there are some
6 issues that I think have to be brought to bear here. I
7 did not get a chance to read the revised document that's
8 been talked about here. I've seen all original data.

9 And as I read that data, I was alarmed at the
10 many uses of "could", "should" and "may". And it was not
11 very scientific from my perspective of reading it. And I
12 think that you're going to have to do some better
13 education of we people that are out there that will
14 ultimately have to administer this program.

15 The other thing is that I'm concerned about the
16 unfunded mandate that will be imposed upon us unless you
17 can find some funding. Our district is very small, and
18 it's just barely surviving on the money that it's getting.
19 And we now know that we're going to be cut back again next
20 year, and you're going to impose upon us the job of being
21 burn barrel cops. And that's an impossibility at this
22 particular time with the staff we've got. So
23 administering the program would be very difficult.

24 I think that as what's been proposed here many
25 times already, that we get into some kind of a public

1 awareness program, might do as much good or more good than
2 without it. And I think there is a way we can do that,
3 leave the individual control up to the local burn
4 districts and go to a burn barrel permit, if we have to.

5 We can charge for those permits, number one. And
6 those permits then, that money could help support the
7 unfunded mandate that you're coming with us. At the
8 second time, it's a great time to get into a public
9 awareness or public education program. As a part of that
10 permit of what can be and can't be in the barrels.

11 I know it's been in the paper, and I know it's
12 been all over the place, but my guess is that many people
13 have not read it to its entirety, and do not know.

14 We have a similar problem right now. Every
15 Wednesday morning, when I go out of my house, I think it's
16 Christmas again, because I look at my back alley and I see
17 a green can, and I see a gray can, and I see a blue can,
18 and we're segregating all our garbage. And this goes on
19 and on every week.

20 The problem is that even the people that live in
21 that community, and we've done extensive articles in the
22 paper and everything, they have a difficult time of
23 knowing what should be recycled and what shouldn't, let
24 alone what should be burned and what should not be burned.

25 So I think the public relations tied to a burn

1 permit could work. I oppose the spottiness of this map,
2 because across the street one person could burn and the
3 other side it could not burn. I think you could tie it to
4 cities that are incorporated, number one, above a certain
5 population, and pick a number 10,000 people, but I haven't
6 got the scientific data, so I don't know.

7 But if it's above 10,000 people, I'm going to
8 pick that number, that you allow the local districts to
9 administer the program. And if they want to go on a
10 permit basis, why, so be it.

11 The problem is we have urban motes around almost
12 every town, so you'd have to say a town plus a mile in all
13 directions from the town or something like that. And
14 maybe if we were able to do this, we would probably have
15 80 percent of the people that are involved in the problem
16 under some kind of control.

17 My city does not allow burn barrels at all, but
18 we do have the urban mote around us that is a problem. So
19 I think that going with some regulations that would
20 include the urban mote, you're including a significant
21 number of people.

22 And that's all I have. Thank you.

23 Any questions?

24 BOARD MEMBER RIORDAN: I have a question.

25 Congratulations on having a recycling program in Yuba

1 City. Does that extend to your urban mote area?

2 MR. BARKHOUSE: Yes, it does.

3 BOARD MEMBER RIORDAN: How far out does it go?

4 Is it countywide or --

5 MR. BARKHOUSE: It's not totally in the county.

6 We have to segregate the waste within the mote and the
7 city limits, but when you get out away from town, they
8 dump everything in a common barrel.

9 BOARD MEMBER RIORDAN: Okay, but they do have
10 recycling?

11 MR. BARKHOUSE: It then goes to our dump, and
12 there is a recycling system at our dump site.

13 BOARD MEMBER RIORDAN: Do you have transfer
14 facilities -- transfer stations throughout the county?

15 MR. BARKHOUSE: Yes.

16 BOARD MEMBER RIORDAN: Thank you.

17 MR. BARKHOUSE: One last thing, I almost forgot
18 it. From my city hat side, somebody mentioned we have our
19 fire department go out, and they'd be the burn barrel
20 cops. I can tell you my fire department is minimal and an
21 excellent fire department, but they're taxed to the
22 limit as it is right now. And to find extra dollars to put
23 on extra staff would be impossible.

24 Thank you.

25 CHAIRPERSON LLOYD: Thank you.

1 We'll take two more witnesses before lunch.
2 We'll take Ken Smith Lassen County and Norm Covell from
3 Sacramento.

4 MR. SMITH: Thank you, Mr. Chair and Members of
5 the Board. For the record, I'm Ken Smith, Air Pollution
6 Control Officer for Lassen County.

7 My comments are in reference to letter number 53
8 that I believe is in your packet.

9 Rather than recite, I thought I'd show you my
10 comments. This is 1.4 pounds of salt, it represents the
11 amount of dioxins that are produced from burn barrels
12 across the United States. From the far reaches of Alaska
13 to the northern woods of main, from the Florida Keys to
14 Waikiki, if were you to collect the dioxins from burn
15 barrels in the United States, this is how much you come up
16 with, 1.4 pounds.

17 Now, how much does Lassen County produce? If you
18 factor in all of the correction factors considering that
19 we can't burn but half the time because of fire
20 restrictions, that we don't burn garbage, we only burn
21 vegetation, and that we only have 774 burn permits, some
22 of those permits are for open-burning and some are for
23 burn barrels, I have know way of knowing, but there's been
24 an over estimation, and so if you factor that in, in one
25 year's time, from burn barrels you're going to produce two

1 milligrams per year of dioxins.

2 You can't even see this unless you hold it up to
3 a piece of white paper. I'd like to enter that into the
4 record.

5 If you contrast that with, we have four
6 cogeneration plants in Lassen County that are wood fired.
7 And they produce 1,000 times more than that. And under AB
8 2588, we determined that that's an acceptable health risk.
9 You know AB 2588 is a program that the State came up with
10 and there is an approved procedure for scoring and ranking
11 these facilities. And they produce 1,000 times more per
12 year in Lassen County. And that has been determined to be
13 a safe health risk.

14 So it defies all reason to come up with a to
15 regulation to ban burn barrels in Lassen County. It's not
16 reasonable. It's not reasonable to allow garbage to be
17 burned in burn barrels in California. That's not
18 reasonable either.

19 So Alternative 2 is reasonable, ban the burning
20 of garbage in California. And that's what Lassen County
21 recommends.

22 Thank you.

23 CHAIRPERSON LLOYD: Thank you very much. The
24 material you have in there, what's the material in there?

25 EXECUTIVE OFFICER KENNY: Salt.

1 MR. SMITH: Salt, and this is Cayenne Pepper, but
2 I'd like to enter it into -- it's nothing dangerous. It
3 just represents dioxins.

4 CHAIRPERSON LLOYD: But obviously you're drawing
5 some analogy between the volume which would be occupied by
6 a certain weight of dioxins compared with the salt.

7 MR. SMITH: Well, we've got to try to get it into
8 apples and apples somehow.

9 CHAIRPERSON LLOYD: Yes, it's not there yet.
10 Any questions?

11 Thank you very much. Are you leaving the salt?

12 MR. SMITH: Just to look and see how little
13 dioxins there are.

14 CHAIRPERSON LLOYD: It's not relevant because of
15 the assumption you make there.

16 MR. SMITH: It's very relevant.

17 CHAIRPERSON LLOYD: Covell.

18 MR. COVELL: Good morning Chairman and Members of
19 the Board. I'm Norm Covell the Air Pollution Control
20 Officer for the Sacramento Metropolitan Air Quality
21 Management District. I appreciate the opportunity to
22 speak today and moving me up on the schedule because of
23 commitments I have later this afternoon.

24 I stand before you as one of the six districts
25 that still has regulations that permit garbage burning in

1 rural areas of the district. Up here today somewhat
2 shamed by one of my associates and good friends Bob
3 Reynolds, who has told me that he spends most of his time
4 Abalone spearing -- fishing, diving for Abalone, and then
5 I find he'd been digging around in burn barrels and doing
6 all kinds of surveys and identifying nasty things.

7 We have reviewed this regulation. We have worked
8 closely with CAPCOA on the language. We are prepared to
9 move forward with the implementation of it within the
10 district. The area it affects in our district is the
11 southern Delta area of the southeast portions of our
12 county.

13 I had discussions with the one board member that
14 would be impacted by this regulation going into effect.
15 And he's comfortable with that.

16 I would like to stress the fact that we are one
17 of the many districts that reside within the great
18 interior valley of California. We're well aware of the
19 impact of air pollution, not only caused by what we
20 generate ourselves, but the issue of transport, which I've
21 heard spoken to a number of times here this morning.

22 And collectively, we do have a very significant
23 problem. It results in this valley being identified as
24 probably the area with the highest potential for adverse
25 problems from air quality as anywhere in the nation.

1 We need to do everything that we can to reduce
2 the impacts of pollution that we generate ourselves. I'll
3 probably be asked the question, why haven't you banned it
4 within your own district?

5 We have, over the years, moved to restrict the
6 areas in which this allowed to the most sparsely populated
7 areas. And for those of you that have been on the Board
8 for awhile know that we had some fairly significant
9 burning issues with some of our industries here that had
10 exemption under the Fire Control Marshall to burn expired
11 or expended rocket propellant.

12 It's pretty difficult to go tell somebody you
13 can't use the burn barrel when you've got tons of this
14 material going up annually.

15 We put a phase-down schedule on that through the
16 cooperative efforts of the State agencies working with us.
17 That no longer exists in that industry.

18 With that findings of toxics associated with
19 this, I think we're prepared to clearly move forward and
20 ban this, especially within the interior valleys of
21 California.

22 So we are prepared to do that. I do want to
23 reinforce the requirement for education. As you know,
24 this regulation is receiving a lot of attention, because
25 it's somewhat like Smog Check in that it adversely impacts

1 the general public. And it seems that the public is
2 certainly more supportive of those things that affect
3 industry down the street, but when it causes us to change
4 the things that we do personally on a daily basis, it
5 becomes more problematic.

6 You've heard from physicians here today speaking
7 to health concerns. You've heard people talk about living
8 in rural areas that are adversely impacted by neighbors
9 who burn these things. You heard one supervisor talk
10 about the temperature inversion. It becomes very
11 problematic, especially in the summer and fall parts of
12 the year.

13 And I don't know -- it doesn't matter who's
14 Governor, we're going to have temperature inversions in
15 the interior valley. And that's something that we've got
16 to live with and reduce the impacts of that by reducing
17 the emissions.

18 That's very much of a challenge for us in areas
19 that are expected to grow in population, like the interior
20 valley is. So we strongly support the proposal before you
21 today, and we would ask you to give special attention to
22 the educational needs of those around the State and
23 perhaps it makes more sense to move ahead with education
24 first in some of these sparsely populated areas, but for
25 urban areas and the burgeoning urban areas of the State,

1 it clearly makes sense to move forward with the proposal
2 before you today.
3 Thank you.
4 CHAIRPERSON LLOYD: Thank you very much.
5 Questions?
6 With that, I think we'll adjourn till 1:00
7 o'clock for lunch. Right after lunch, we'll start with
8 Dewayne Matthews, Joe Moreo, Bill Stephans, Gary Caseri
9 and Jim Hemminger.
10 Thank you so much. And we'll get back at 1:00
11 o'clock. I should also mention that the Board will be
12 having a closed session during the lunch time period.
13 (Thereupon a lunch recess was taken until
14 1:00 p.m.)
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1 AFTERNOON SESSION
2 CHAIRPERSON LLOYD: The meeting of the California
3 Air Resources Board is now in session. Please come to
4 order.
5 Earlier today, that is in the luncheon period,
6 the Board met in closed session. Before proceeding to the
7 next item on the agenda, I would like to announce the
8 results of the closed session.
9 The Board has conferred with and received advice
10 from its counsel regarding two pending lawsuits: Daimler
11 Chrysler and General Motors et al. versus California Air
12 Resources Board and Michael Kenny, filed January 3rd, 2002
13 in the U.S. District Court for the Eastern District of
14 California, and Daimler Chrysler, General Motors and Isuzu
15 et al. versus California Air Resources Board and Michael
16 Kenny, filed June 4th, 2002 in Fresno County Superior
17 Court. No action was taken.
18 At this time I'd like to continue -- I would like
19 to put on continuation the agenda item vis a vis burn
20 barrels, and open the record on Agenda Item 02-1-5,
21 proposed amendments to the current regulation for
22 voluntary accelerated vehicle retirement. And I'm opening
23 this one in order to take testimony from Senator
24 Johanessen who has other obligations later in the
25 afternoon. So I would like to ask Senator Johanessen to

1 come forward and give us the benefit of his advice on this
2 particular regulation.

3 SENATOR JOHANESSEN: Thank you, Mr. Chairman and
4 Members of the Board. This particular item that you're
5 dealing with is somewhat close to my heart. I think you
6 will understand in as much as was the author of the
7 legislation in which we are discussing.

8 This legislation worked on for several years to
9 come down to some understanding of what the initial
10 legislation not only was about, but how if it were to be
11 any kind of a modification what form would it take.

12 Unfortunately, it has that these kind of things
13 has a tendency when you write legislation to be
14 interpreted. And the problem is that the bureaucracy
15 sometimes has a tendency to try to interpret legislation
16 in the way they would like to see it be rather than that
17 which it is.

18 So in this particular case, this piece of
19 legislation did not, and I repeat the intent of this
20 legislation did not, allow for or mandate for the
21 destruction of any parts including emission related parts.

22 The idea behind this piece of legislation were to
23 retain parts that would be usable, and to be used to
24 repair cars perhaps of another age and to be of benefit to
25 those people who, as a hobby or whatever, would build cars,

1 people who would restore cars, and, in fact, repair the
2 cars that they had existing cars that they had with
3 perhaps parts and equipment that were, through that era of
4 the car no longer would be available perhaps in the open
5 market with the exception of the after market is coming on
6 strong and doing things, quite frankly better than the
7 originals.

8 But we have a problem here again with the
9 certification and all the rest that take years to get a
10 simple part through certification to be exchangeable in
11 the current rules and regulations.

12 So what transpired in the, and I can quote the
13 legislation, but I'm sure that you have it. What
14 transpired in the negotiation is trying to figure out what
15 to do with this, we came up with a sticking point which is
16 actually emission control devices.

17 Well, emission control devices could mean
18 anything, except perhaps the door handle on the car or
19 something. And so it has been apparently interpreted as
20 being the total drive train of a car.

21 Yeah, granted, if you, I don't know why I would
22 be surprised, but that could contain the whole thing. So
23 I want to make absolutely sure that the intent of the
24 legislation that we worked for would be kept exactly what
25 it is and that the interpretation will be left in that

1 matter.

2 In essence, the only difference would be the
3 funds that from the, I'm trying to think of the fund's
4 name -- it's not important -- yeah, it's important. It's
5 the amount of money that is paid to the wrecking yard for
6 taking these cars that you will pay the people that
7 basically put the cars in the wrecking yard.

8 In those cases there is a seven-day waiting
9 period. Unfortunately, that can be construed as well,
10 because the car may never reach the wrecking yard in seven
11 days. So there ought to be to make sure that the seven
12 days occurred at the time it needs the wrecking yard, and
13 therefore being publicized that you have that type of a
14 car.

15 There have been instances where cars, maybe just
16 the engine block alone is worth \$7,000 or \$8,000, been
17 crushed for no reason whatsoever. They could be used for
18 rebuilding, perhaps, a show car or something. So we would
19 like to make sure that that is taken -- make sure that
20 that is working.

21 The other thing that it was hoped for, at the
22 time we were negotiating this piece of legislation through
23 the Legislature, were that we assumed that a car that may
24 not meet the current smog standard, which very few do in
25 the older cars, but they do meet the standard in which

1 time they were built. So that people who -- generally,
2 people who have these older cars are, in most cases, not
3 all, but in most cases are people of limited means. And
4 that the, at least my assumption would be, that if parts
5 were available to be purchased to repair and modify,
6 perhaps, these cars to meet the standards that they ought
7 to be made, is tremendous savings.

8 Because by crushing these cars, a lot of things
9 happen to them. Crushing these cars doesn't solve the
10 problem, because the amount of money that is given than to
11 that person, they will go out and buy perhaps a similar
12 car that can't meet that, anyway, the next time around.

13 So we're not gaining anything, except it is
14 perceived in the area of air pollution, that if you crush
15 enough cars sooner or later we're going to save the
16 environment. That is the presumption.

17 And I think it's the same thinking that went into
18 that everybody should run around in electric cars.
19 Unfortunately, there hasn't been long enough cords made to
20 do it. So we're going to end up now probably with some
21 kind of hybrid and so forth.

22 So, in the case that we're dealing with here
23 today, I just want to make sure that the intent of my
24 legislation is clear and obvious. And I hope that this
25 Board would recognize that, because the most frustrating

1 thing for a legislator is that you go through the trials
2 going through putting bills together and then when you're
3 all done, you give it to some bureaucracy someplace who
4 will sit a wake at night trying to figure out to put in
5 some kind of rule or regulation that will basically avoid
6 or skew away from the intent of that legislation. And I
7 hope that you bear that in mind, and I appreciate very
8 much if you would do that.
9 And if you have any technical questions that you
10 may want to have, I have with me someone that can do that
11 for you if that's required.
12 CHAIRPERSON LLOYD: Thank you very much, Senator.
13 Will that person be available when we bring this item up
14 on the agenda?
15 SENATOR JOHANESSEN: Absolutely. There will be
16 no doubt about it.
17 Thank you very much and I'm delighted to see you
18 all again.
19 CHAIRPERSON LLOYD: Thank you very much.
20 We have a question, Senator. Two questions.
21 Ms. D'Adamo, and Mr. McKinnon.
22 BOARD MEMBER D'ADAMO: Senator, thank you for
23 appearing today. I found your testimony quite helpful.
24 Do you have a copy of the bill that you could leave with
25 someone so that we could get a copy of it. I'm noticing

1 in the materials that we have, I don't see it in its
2 entirety.
3 SENATOR JOHANESSEN: I can certainly make sure
4 that you have that. I will make sure of that.
5 CHAIRPERSON LLOYD: Mr. McKinnon.
6 BOARD MEMBER McKINNON: Senator, it's always a
7 pleasure to see my favorite tool and dye maker.
8 SENATOR JOHANESSEN: You remember.
9 (Laughter.)
10 BOARD MEMBER McKINNON: Just so I'm clear, is the
11 most important subject to you the mechanics of the
12 seven-day period, so that the cars are truly available?
13 Is that --
14 SENATOR JOHANESSEN: That is the one area
15 certainly. But the other area as well is that some of the
16 most valuable parts that you have in the car is the engine
17 and drive train. For the purposes of not only building
18 cars, replica cars, whatever you want, but also to
19 remodel, if you will, these kind of cars.
20 And, for example, if you have -- well, let's just
21 say a 454, it could be a General Motors or whatever it is,
22 you have. And those are harder to find with good
23 rebuildable blocks, for example. And if you want to
24 restore a show car you need those kind of items and they
25 become quite rare.

1 And there's no reason to assume that you sold the
2 problem but merely crushing them. You could force the
3 issue, for example, which has been suggested. You could
4 force the issue that you don't want this particular engine
5 that perhaps is blow by on the rings or whatever it
6 happened to be or whatever, that you get it out of
7 circulation in its current form.

8 That you can take a couple of spark plugs out,
9 put a little sand in the engine and crank it over, it
10 won't damage the block to the point you can't rebuild it,
11 but it certainly can make that engine unusable in its
12 current condition. And no one is going to take that kind
13 of an engine and rebuilding it at the cost that that
14 engine is going to be put in there.

15 I mean, that's a tremendous amount of cost.
16 You're talking an engine like that, rebuilding and engine
17 like that, you're talk maybe \$4,000 or \$5,000 or \$6,000.
18 They're got going to do that.

19 So, obviously, it won't be something that someone
20 goes in the scrap heap and take the engine off and pluck
21 them in an old car that smokes like crazy. They're not
22 going to do that.

23 So I guess what I'm saying is that logic and
24 reason in this area goes a long, long way. And we're not
25 talking about a huge universe of cars here. We're really

1 not.

2 But the philosophy behind it is, let's save what
3 we can, and I would really appreciate it.

4 CHAIRPERSON LLOYD: Thank you, Senator.

5 SENATOR JOHANESSEN: Thank you very much.

6 CHAIRPERSON LLOYD: I'd like to continue this
7 item in order to go back to the previous item on the burn
8 barrels and continue testimony.

9 We will go to Dewayne Matthews, Joe Moreo, Bill
10 Stephans.

11 MR. MATTHEWS: Mr. Chairman, ladies and gentlemen
12 of the Board, my name is Dewayne Matthews. I'm the Fire
13 Chief with a volunteer fire department. And I'm here
14 representing the Modoc County Chiefs Association.

15 My objection to this is strictly from a fire
16 safety standpoint. When you do have burning in a burn
17 barrel it is in a contained area, and it's less liable to
18 get away and start secondary fires.

19 Paper and cardboard, especially, have a tendency
20 when burned to let off sparks that float with the rising
21 air currents from the heat created and can land several
22 feet to hundreds of feet away. So that if you get rid of
23 the burn barrels, all that paper and stuff can start fires
24 elsewhere.

25 Thank you.

1 CHAIRPERSON LLOYD: Thank you very much, in deed.

2 Joe Moreo, then Bill Stephans, Gary Caseri.

3 MR. MOREO: Thank you for allowing me to -- My

4 name is Joseph Moreo. I'm the Air Pollution Control

5 Officer in Modoc county amongst other things. And before

6 I get started, just so it's clear in my mind, we've a

7 quorum of six, a board of 11, a quorum of six, you can

8 vote on this today, right, with a majority of those

9 present?

10 CHAIRPERSON LLOYD: Correct.

11 MR. MOREO: Well I'm hoping everyone came with an

12 open mind, but I really need three people to have shown up

13 this morning with an open mind, and hopefully that's the

14 case.

15 (Laughter.)

16 CHAIRPERSON LLOYD: Well, they'll were going the

17 show up.

18 (Laughter.)

19 BOARD MEMBER McKINNON: I would bet six of us

20 showed up with an open mind. I'd bet on it.

21 MR. MOREO: You'd bet on that?

22 BOARD MEMBER McKINNON: Yes.

23 MR. MOREO: What kind of odds do I get?

24 BOARD MEMBER DeSAULNIER: Keep talking and we'll

25 close it.

1 (Laughter.)

2 MR. MOREO: Prior to the California Air Resources

3 Board consideration of the proposed prohibition of burn

4 barrels the first suppression benefits of burn barrels

5 must also be considered. We believe that value, in terms

6 of fire safety of this simple technology in rural areas,

7 clearly outweighs the comparatively minimal risk of any

8 emissions caused health effects the staff report, the blue

9 thing, attempts to quantify.

10 The Modoc County Air Pollution Control District

11 recognizes the amount of fire protection the use of burn

12 barrels affords.

13 We believe the use of burn barrels is an

14 appropriate environmentally benign method in rural and

15 timberlands of the State, for disposing paper, cardboard

16 and other combustible waste. We believe the prohibition

17 of burn barrels will result in increased wildland fires,

18 illegal dumping and significant solid waste facility

19 impacts. These impacts are of great concern to much of

20 California.

21 Incredibly, the proposed ATCM has the distinct

22 possibility of actually contributing to wildland fires and

23 air pollution. By prohibiting the use of burn barrels in

24 rural areas, the threat of wildland fire confronts

25 California every summer and typically causes catastrophic

1 damage in some part of the State year after year.

2 The fire prevention aspect of burn barrels must
3 be recognized and taken into account in any discussion of
4 a proposed prohibition. Fire suppression agencies have
5 been permitting burn barrels in California for many years
6 for fire prevention purposes. We believe this effort has
7 protected California's citizens and environment for as
8 many years.

9 We request, at a minimum, that the California Air
10 Resources Board consult with local, State and federal fire
11 suppression agencies concerning the potential adverse
12 effects before approving the proposed ATCM, and subsequent
13 burn barrel prohibition. To date, this concern has not
14 been adequately addressed by the ARB staff in our view.

15 Of additional concern, and further complicating
16 the proposed ATCM is the health risk assessment, once
17 again in the blue book, used for the justification of a
18 Statewide burn barrel ban.

19 When the risk assessment numbers are analyzed, we
20 find that dietary risk pathway is by far the most
21 significant. Ninety-four percent of the risk in that
22 model is dietary, not emissions. I can't overstress that.
23 And if you haven't looked at that thing, you really do
24 need to look at those numbers today.

25 We also find the dietary risk pathway described

1 in the report to be highly suspect in its assumptions.
2 And, in fact, can be shown to be in error. For example,
3 the upper range of the dietary risk pathway assumes that a
4 household can produce all of its meat, beef, pork,
5 chicken, milk and eggs within 20 meters of a burn barrel,
6 an area of less than a third of an acre. This is
7 obviously impossible.

8 On the other hand, the lower range of the dietary
9 risk pathway is shown to be below the level of public
10 health concern by the very same assessment. Again, this
11 dietary risk pathway and its assumptions, account for more
12 than 94 percent of the entire cancer risk assessment.

13 Without this dietary portion of the cancer risk
14 model, the cancer risk chances per million drops to levels
15 that are insignificant to protecting public health. We
16 request that the California Air Board allow for the time
17 and opportunity to further explore this health risk
18 assessments with ARB staff before the approval of the
19 ATCM.

20 Given the serious concerns previously described,
21 the Modoc County Air Pollution Control District
22 respectfully requests, at this time, the California Air
23 Resources Board not approve banning burn barrels or
24 prohibiting the burning of paper and cardboard statewide.

25 In our estimation, the control measure is much

1 worse than the stated problem. We strongly recommend this
2 issue be left to the discretion of the local air pollution
3 control districts and their representative constituencies.

4 And I'd entertain any questions. And I hope
5 somebody asks me a question about that risk model.

6 CHAIRPERSON LLOYD: Mr. McKinnon.

7 BOARD MEMBER McKINNON: Yeah. I'd like to ask
8 you a question about something else. Do you approve of
9 burning plastic or styrofoam cups or foam or aluminum
10 foil?

11 MR. MOREO: You mean in a burn barrel?

12 BOARD MEMBER McKINNON: Yes.

13 MR. MOREO: No, I don't. And I would suggest as
14 an alternative if we want to ban something, we could
15 possibly look at banning the burning of plastic. But in
16 our view, this measure -- banning the method, i.e. He burn
17 barrel, which has some fire suppression qualities is just
18 not justified.

19 BOARD MEMBER McKINNON: My second question is did
20 you take any enforcement action citation or otherwise in
21 the last year for people burning plastics or styrofoam or
22 foil and other?

23 MR. MOREO: It hasn't been within the last
24 calendar year. But within the last two years, based on
25 complaints, what we did is went out and talked to the, I

1 don't want to call them a violator, because we don't have
2 a regulation on the books that he's actually violating.

3 But, you know, basically where I live, if you
4 have neighbor impacts, you have an agency you can call.
5 We go out and talk to the guy, and we normally resolve it
6 at that level. And we're suggesting that's the level we
7 should keep it at.

8 BOARD MEMBER McKINNON: I'm not asking you to the
9 questionAs where you live. I'm asking you the question as
10 the Air Pollution Control Officer.

11 MR. MOREO:As Air Pollution Control Officer in the
12 last two years, I responded to two complaints that delve
13 into this burning of garbage, both of which were, I guess
14 you'd say, mitigated by me talking to the person.
15 Actually, in both case they quit burning, based on
16 complaints.

17 BOARD MEMBER McKINNON: So you had two complaints
18 in two years of burning trash.

19 MR. MOREO: Two complaints in two years, yes.
20 Please, somebody ask me about this model, because you
21 really do need to look at it.

22 CHAIRPERSON LLOYD: What do you want us to ask
23 you about it?

24 (Laughter.)

25 MR. MOREO: Well, do you understand that today if

1 you vote to ban burn barrels, you're not doing it because
2 of health effects, according to the model, from health
3 effects from emissions. You're doing it for the dioxin
4 deposition on forage crops that are then going to be
5 consumed by people, and that is the method that their
6 health is going to be impacted by dioxins.

7 And we test for dioxins in food, milk, meat,
8 eggs, and we don't find them at anywhere close to health
9 threshold levels. The model is seriously flawed in that
10 respect. Ninety-four percent of the risk in that model is
11 dietary. And I left out the backyard garden and mother's
12 milk provisions which also have some problems.

13 CHAIRPERSON LLOYD: Do you want to respond?

14 PLANNING AND TECHNICAL SUPPORT CHIEF FLETCHER:

15 Yeah, I'll respond to that a little bit and then we have
16 Dr. Andy Salmon from the Office of Environmental Health
17 Hazard Assessment that would be happy to respond further.

18 I'm Bob Fletcher.

19 Certainly, there is uncertainty in risk
20 assessments. And As Mr. Moreo has pointed out, the
21 assumptions that we make regarding 70-year exposure and
22 the dietary intake are correct. I mean, he's right about
23 that.

24 But I think what we've tried to do in that is
25 provide a relative perspective on risk from different

1 compounds. And clearly the multi-pathway for exposure is
2 important from the dioxin perspective.

3 The 20-meter estimate and consuming all of that
4 food is the assumption that's typically made in these
5 sorts of analyses, again, to provide a perspective on the
6 relative risk of these compounds.

7 So there is uncertainty in the risk estimates.
8 There's uncertainty in the emission factors, and we have
9 taken, you know, if you looked in the staff report, there
10 was a couple different estimates of an emission factor.
11 We have used the lower emission factor. There's a higher
12 emission factor that's probably 30 times higher than what
13 we've presented here.

14 And we believe that the inhalation risks alone
15 associated with dioxins and the other compounds there, the
16 other toxic air contaminants are sufficient to justify the
17 actions that we're taking.

18 And if you would like more information about the
19 dioxin exposure, Dr. Salmon would be happy to elaborate.

20 CHAIRPERSON LLOYD: I think that's fine.

21 Now, you are a member of CAPCOA?

22 MR. MOREO: Yes, unless they kicked me out, yes.

23 (Laughter.)

24 MR. MOREO: I think they're considering that.

25 CHAIRPERSON LLOYD: I'm amazed that Barbara still

1 doesn't have gray hair there, or Barry.
2 MR. MOREO: We're working on a deal for me to
3 mitigate that.
4 (Laughter.)
5 CHAIRPERSON LLOYD: Thank you. I think we hear
6 your concern. Our difficulty here we've got to look at
7 the State as a whole. And obviously we hear a lot of
8 people in favor of this regulation, people against, people
9 wanted modifications. It's our job to try to balance
10 those issues there, but we appreciate your testimony.
11 MR. MOREO: Doesn't that make the case for local
12 control? They need this regulation in the populated areas
13 where they have it.
14 CHAIRPERSON LLOYD: We've heard those cases
15 lines. We'll hear some more.
16 MR. MOREO: Thank you.
17 CHAIRPERSON LLOYD: Bill Stephans, Gary Caseri,
18 Jim Hemminger, Bob Reynolds.
19 MR. STEPHANS: Well, good afternoon. My name is
20 Bill Stephans. I'm the Air Pollution Control Officer For
21 Siskiyou County. And I appreciate the opportunity to talk
22 to the Board regarding the ATCM for toxic emissions.
23 We have many concerns with ATCM. And my first
24 concern is that the process of adopting this measure
25 appears to have been fast-tracked without the full benefit

1 of review by the affected parties of the relevant comments
2 received by ARB through their long scoping period.
3 By that statement we mean that Health and Safety
4 Code section 39665(c) has been interpreted by staff to
5 mean something other than what it plainly states.
6 Directly quoting from the law it
7 states, "The staff report and relevant
8 comments received during consultation
9 with the districts, affected sources and
10 the public shall be made available for
11 public review and comment at least 45
12 days prior to the public hearing required
13 by Section 39666."
14 Our last public consultation was held on January
15 23rd, 2002 in Yuba City. On February 4th, 2002 we
16 requested your legal staff to forward the relevant
17 comments to us immediately, if they existed, or to give us
18 their legal reasoning and authority for not complying with
19 this code section.
20 On February 19th, 2002 at approximately 5:00
21 o'clock in the afternoon, the district received a written
22 reply from Kathleen Walsh, your general counsel, and I
23 personally thank her for her written response to us about
24 my comments.
25 As partner with ARB and enforcing air pollution

1 regulations, we are concerned that the interpretation of
2 Section 39665(c) is not correct.
3 JustAs in CEQA, and the code section
4 is Public Resources Code 21091, "All
5 relevant comments must be published and
6 addressed in the EIR. And failure to
7 comply with this requirement can lead to
8 the disapproval of the project. The
9 public must be assured that each comment
10 was given careful consideration in the
11 final document."
12 Without the relevant comments being made
13 available, how are the public and affected sources able to
14 be sure their voices were heard?
15 The interpretation of this code sectionAs
16 extensively explained in the written document authored by
17 Ms. Walsh appears to say that since ARB conducted a long
18 scope process and the oral comments were extensively
19 discussed, then, ARB has complied quote, "...with the
20 letter and the spirit of the law set forth in Health and
21 Safety Code section 39665(c)."
22 We agree with Ms. Walsh that the staff report was
23 released at least 45 days prior to the hearing. However,
24 we did receive some comments on official stationary
25 yesterday afternoon. That was approximately 15 to 18 days

1 after I requested those comments.
2 We also agree that the relevant comments can be
3 received up to and including the date of the hearing.
4 However, relevant comments received during consultation,As
5 stipulated in Section 39665(c), are required to be made
6 available at least 45 days prior to this hearing.
7 By my calculations, with the last consultation
8 being held on January 23rd, the earliest this hearing
9 could have taken place is March 11, 2002.
10 It is our understanding that a statute cannot be
11 interpreted differently than what the plain language of
12 the statute says. Case law is very specific in this
13 regard.
14 Additionally, regulatory departments cannot
15 interpret a statute differently than the plain language
16 contained in that statute because it is perceivedAs a
17 burden or would have placed undue emphasis on the
18 comments,As Ms. Walsh has stated in her letter to us.
19 I believe a process of adopting this ATCM has not
20 complied with Section 39665(c) by interpreting it to mean
21 something other than what the Legislature's intent was and
22 what the plain language of the statute states.
23 As a partner in the process, we respectfully
24 request that the relevant comments and not just the
25 official comments on letterhead,As stated in legal staff's

1 February 19th letter to me, be made available to all
2 stakeholders prior to adopting this ATCM.

3 CHAIRPERSON LLOYD: I understand the legal
4 issues, but in terms of our job of protecting public
5 health, are you for or against this?

6 MR. STEPHANS: Well, I'm actually against the
7 ATCMAs written, yes.

8 CHAIRPERSON LLOYD: Okay.

9 MR. STEPHANS: And I'll get into the other
10 reasons, if I may?

11 The ATCM proposes to ban all residential burning,
12 except the burning of natural vegetation in non-exempt
13 areas. This proposed ban includes paper and cardboard.
14 Staff's justification in proposing to include paper and
15 cardboard is stated on page 6-4. ANd that basically says
16 individual tests are not available to quantify the dioxin
17 emissions from separate material types, such as paper and
18 cardboard.

19 Therefore staff determined that the best
20 available control technology for residential waste burning
21 would be a prohibition on burning of all types of
22 residential waste materials, other than the natural
23 vegetation. I request that prior to banning the burning
24 of paper and cardboard, the Board directs staff to perform
25 emission tests on paper and cardboard to determine the

1 emission rates of dioxin and other toxic air contaminants.

2 My third concern is nowhere in the report is
3 there a total quantifiable number for the California dioxin
4 emissions associated with the use of burn barrels and
5 residential burning.

6 What amount of emissions are we eliminating by
7 implementing the proposed ban and at what cost to the
8 public.

9 The U.S. EPA estimates that residential burning
10 emits 620 grams of dioxins per year in the entire United
11 States. That is approximately, As stated earlier,
12 approximately a pound and a half of dioxin emissions.

13 In table 4-4 on page 4-7, staff reports that the
14 average emissions of dioxins are estimated to be .15 grams
15 per year per household or .005 grams per year per
16 household depending on the Series 1 1997 testing or Series
17 2 2000 testing.

18 Something does not ring true with either
19 emissions estimates because using either number times the
20 estimated 108,200 households, able to burn residential
21 waste, and that's in table 4-2 page 4-5, the total dioxin
22 emissions in California would be estimated to be 16,230
23 grams or 541 grams respectively.

24 The range between these two numbers suggests to
25 us that the numbers used throughout the report vary so

1 greatly that it is impossible to correctly estimate the
2 risk.

3 Pursuant to Health and Safety Code Section
4 39665(b)(5), the staff report must contain the approximate
5 cost of each airborne toxic control measure, the magnitude
6 of the risk posed by the substancesAs reflected by the
7 amount of emissions from the source for a category of
8 sources, and the reduction to risk which can be attributed
9 to each airborne toxic control measure.

10 CEQA require transparency. Therefore, I believe
11 ARB CEQA's equivalency also requires staff to divulge the
12 numbers they used in all their calculations. My staff has
13 asked repeatedly for the numbers used in their
14 calculations so that we could estimate our risk since the
15 districts hotspots prioritization threshold is ten excess
16 cancer cases per million, not the one excess cancer caseAs
17 stated in the report. And they use that to justify the
18 three people per square mile population density.

19 To date, we have not received this information.
20 I wrote this yesterday. I was told by Mr. Effa that we
21 did receive it late yesterday afternoon and staff hasn't
22 had time to do the risk assessment. So I don't know what
23 was given to. I wasn't there.

24 Since the emission numbers attained during
25 various tests appear to have a low confidence rating since

1 the numbers vary so greatly, we request that this Board
2 direct staff to release all calculations including the
3 numbers used in those calculations, so that public truly
4 knows the risk and the cost of reducing that risk.

5 Again, we ask the Board what is the total coast
6 of this ATCM to the public.

7 CHAIRPERSON LLOYD: Mr. Stephans, we're running
8 out of some time here. We do have copies and we're
9 reading along with you. Maybe you could just highlight
10 that and then the Board can ask questions based on your
11 statement here.

12 MR. STEPHANS: Well, the only thing that I have
13 is I do burn paper and cardboard. And I have timed my
14 burning along with my neighbor who is a neighbor that has
15 four individuals. In no case have I ever exceeded 17
16 minutes in a two week periodAs opposed to the two hours
17 per burn, twice a week which is four hours per week. So I
18 think that the estimates are quite high.

19 And in his, it's only 33 minutes for his
20 household every other week too. So, again, I believe that
21 the estimates are quite high in their assumptions.

22 The only other thing that I could say is that if
23 you look on the Table 3-1 on page 3-4, U.S. EPA estimates
24 that municipal solid waste incinerators and medical waste
25 incinerators when they're combined produce almost three

1 times as much dioxin that the highest estimate of the EPA
2 is for all burn barrels in the United States. Why aren't
3 we going after those emissions if it's so bad?
4 They're almost three times as high as what the
5 highest estimate is, so that's my question here.
6 That's about it.
7 CHAIRPERSON LLOYD: Ms. D'Adamo and Mr. McKinnon.
8 BOARD MEMBER D'ADAMO: Mr. Stephans, I should
9 just start off by stating that I think that it's the
10 position of the entire board, as well as staff, that the
11 more information provided to the public the better. And I
12 certainly hope that if there are any remaining comments or
13 issues that you need additional information, that staff
14 would be able to provide that to you.
15 As far as a legal matter though, I'm a little bit
16 lost here, because you cite the Health and Safety Code and
17 then you cite CEQA, so I was wondering if Ms. Walsh could
18 comment on what is actually required of the Board in terms
19 of the period of time in which members of the public
20 should be able to obtain this information.
21 GENERAL COUNSEL WALSH: Under the Health and
22 Safety Code regarding the adoption of Airborne Toxic
23 Control Measures, ATCMs, such as this measure, the
24 legislation states that the staff report, including
25 relevant comments that have been received are made

1 available to the public at least 45 days before the
2 notice.
3 That actually is a parallel of the basic
4 Administrative Procedure Act requirements for rule
5 makings. We do that as a matter of course.
6 In this case, there were written comments that
7 were collected prior to the issuance of the 45-day notice.
8 Those documents were apart of the record and were
9 available to anyone who requested those.
10 And as soon as I was aware of Mr. Stephans'
11 letter, I did make sure we got copies of what was in the
12 record to him. That's a standard practice.
13 In terms of comments that came in orally during
14 the extensive workshopping and meeting process for this
15 regulation, those are generally reflected in the initial
16 statement of reasons. That's the basic purpose for those
17 workshops and meeting activities was to collect
18 information, ideas and thoughts to provide them to the
19 Board as a part of the staff report.
20 The additional concern that somehow the workshops
21 and contacts that were made subsequent to the issuance of
22 the 45-day notice creates a, what I would describe, as a
23 legal conundrum, which Mr. Stephans is suggesting that we
24 should just shut off all contact with folks at the point
25 in time we issue the 45-day notice when, in fact, and in

1 practice and certainly a reasonable process means that's
2 the point in time when you maybe step up your contact with
3 folks.

4 And, in fact, we do that on a regular basis, not
5 only with this ATCM but ATCM's generally, and regulations
6 generally. As you know, oftentimes we come to the Board
7 with modified proposals from the proposal that went out
8 with the original 45-day notice based on those comments.

9 So I believe that we have complied fully with the
10 statutory requirements, both under the Health and Safety
11 Code and CEQA in this regard.

12 MR. STEPHANS: May I respond. I was not saying
13 that you could not take other comments between the 45-day
14 comment period. What the Code specifically says in its
15 plain language is that "...and relevant comments received
16 in consultation with..." and you can continue to receive
17 once that 45-day comment period is in place, you can
18 continue to receive other comments.

19 We have the same problem with CEQA. I've dealt
20 with many CEQA issues where I regarding geothermal plants
21 that they're trying to put in the Mendocino Lake area.

22 We do have a certain time limit that we have to
23 accept public comment. And what I have a problem with is
24 that in the workshops no one took the comments down. They
25 didn't appear to me at least in Yreka. What we in every

1 consultation with CEQA, we had someone taking the comments
2 down and we had to publish those in the EIR and address
3 those.

4 Here what I've only received from ARB was the
5 written comments, and no other comments from anyone else
6 in any of the workshops. And I guess what I'm concerned
7 about is there might be issues that have been brought up
8 that have not been addressed that no one is aware of
9 because it only happened in some workshop someplace else.

10 BOARD MEMBER D'ADAMO: But that's the purpose of
11 a staff report to summarize the issues.

12 MR. STEPHANS: It doesn't say that the staff
13 report shall include relevant comments. It says basically
14 -- this code section says, "The staff report and relevant
15 comments." There's a difference between saying including
16 relevant comments, there's a difference between saying
17 well, they can address relevant comments in the staff
18 report.

19 That's not what this code section says. So I
20 talked to my CEQA attorney who we've used extensively.
21 And he said there's case law says that you cannot
22 interpret a code section that's written in plain language
23 any differently than what the code section is written.
24 And those that's all my point is.

25 I'm a partner in this process, and I understand

1 that, but I've been told by my CEQA attorneys that if we
2 did something similar to this in our CEQA review that we
3 would lose in court because we haven't followed step. And
4 we would be required to pay legal fees and other fees
5 associated with that case, if we did lose it because we
6 didn't follow a step. That's my concern.

7 BOARD MEMBER D'ADAMO: I think the staff report
8 does include that information. But if Ms. Walsh could
9 respond just for the record.

10 GENERAL COUNSEL WALSH: That is our position,
11 that the purpose of those workshops was to collect
12 comments to engage in discussion with folks who would be
13 affected by the regulation that was done, and the comments
14 are reflected in the staff report.

15 CHAIRPERSON LLOYD: Yeah. I know you've
16 underlined and, but also you could also underline
17 relevant, so I guess the staff has to --

18 MR. STEPHANS: And you know that I talked about
19 that to the attorney. And he said, yeah, it depends on
20 who calls relevant whatever relevant is. And I understand
21 that that's a wiggle world. But usually you want to err
22 on the side of being cautiousAs opposed to not being
23 cautious, because you may think something is relevant or
24 not relevant, the judge that you're going against may
25 think it was relevant and there's a problem there.

1 So you try to be as cautiousAs possible and try
2 to take in as much. That's what his comment to me was
3 whenever I did discuss this with him.

4 GENERAL COUNSEL WALSH: I will say that I agree
5 with that legal advice, and we do err on the side of
6 caution in that regard. And to the extent that Mr.
7 Stephans is worried that somehow there were issues that
8 were revealed during the workshop process that are not
9 reflected somehow in the staff report, I do believe that
10 is not the case.

11 MR. STEPHANS: But we don't know, that's my
12 point. You don't know, because they're not written down.

13 The only thing that I could say is that I would
14 ask that the Board to take the following proposed actions
15 on the ATCM. And that is direct staff to implement a
16 thorough education program, I agree with that, consisting
17 of educational materials the districts can use to show the
18 dangers of burning illegal products. I agree with that
19 wholeheartedly.

20 I also agree with requiring residential burning
21 on burn days only.

22 CHAIRPERSON LLOYD: What do you mean by illegal
23 products?

24 MR. STEPHANS: We already ban all the products in
25 the ATCM locally, except for paper and cardboard and

1 textiles. Now the textiles were put in years ago because
2 of burning seed bags from farming. Okay, so that's not a
3 problem with us. We can remove that. I don't have a
4 problem with that.

5 But what my main concern is that we do not have
6 the air emissions data to ban burning of paper and
7 cardboard. And I understand there's illegal products that
8 could be burned but that's an educational issue that we
9 can handle on the local level.

10 With the Governor's budget of \$5 million removal
11 of subvention to the local air districts, his proposal in
12 his budget, I can't see how we can continue to accept more
13 mandated enforcement programs with less money. So that's
14 what my concern is.

15 The other thing that I would say is continue to
16 allow the use of burn barrels if the local district board
17 adopts a resolution in a duly noticed public hearing that
18 the banning of the use of burn barrels will impose
19 additional serious fire safety concerns on the district,
20 require a permit to be issued which would allow
21 dispersment Of educational materials and the collection
22 of residential burning data for further study.

23 That's important. We don't who's out there
24 burning. I don't know. And all these things, everywhere
25 where it says an estimate, that's the best guess, and it's

1 a big guess.

2 So we would like to gather information like that
3 and revisit the ATCM in four years after staff has
4 performed additional emission studies and the districts
5 have accumulated burn data to either support or not
6 support additional regulatory actions, ban all garbage
7 burning throughout the State, but continue to allow paper
8 and cardboard burning, and extend the implementation
9 dateAs outlined in the RCRC suggestions.

10 I think that those -- we've already been burning
11 for years and years. I don't understand what the point is
12 that to go so rapidly into this, if people do want to ban
13 it locally, I agree with that wholeheartedly. That would
14 be perfect. In my area it doesn't appear to be what the
15 population wants in my area, so that's why I'm here.

16 Thank you.

17 CHAIRPERSON LLOYD: Thank you very much.

18 Any questions?

19 CHAIRPERSON LLOYD: Mr. McKinnon.

20 BOARD MEMBER McKINNON: Yeah. In the last couple
21 of years have you taken any enforcement actions on
22 individuals for burning nonpaper, cardboard and textile
23 products?

24 MR. STEPHANS: Yes, we have.

25 BOARD MEMBER McKINNON: How many have there been?

1 MR. STEPHANS: Five so far, and we're taking one
2 criminally right now in the D.A.'s office as opposed to
3 doing the mutual settlement possible with the individual.

4 BOARD MEMBER McKINNON: My second question is
5 that there's been -- there's an estimate that out of the
6 county's 44,300 residents approximately 6,500 people are
7 estimated to actually use burn barrels to burn waste.

8 MR. STEPHANS: That was our best guess, yes, sir.

9 BOARD MEMBER McKINNON: If you are to subtract
10 out those places where you have population densities that
11 qualify for either of the two types of exemptions, how
12 many of the 6,500 people are in those areas that qualify
13 for the exemptions?

14 MR. STEPHANS: I can't give you an answer right
15 now because I just received the staff right know, so I
16 don't -- I have no idea. We haven't done a study on
17 exactly where these populations are.

18 BOARD MEMBER McKINNON: Let me just ask you in
19 places like Weed, in town, do people use burn barrels?

20 MR. STEPHANS: No, they're not allowed, but
21 outside they are.

22 BOARD MEMBER McKINNON: Outside of Weed, they do
23 or out?

24 MR. STEPHANS: Yes. In fact, One of the
25 supervisors who was supposed to be here, Supervisor Bill

1 Hoy, does have a burn barrel and he's in Weed, right out
2 outside of Weed.

3 BOARD MEMBER McKINNON: Just outside of Weed.

4 MR. STEPHANS: Yes.

5 BOARD MEMBER McKINNON: Great. Thanks.

6 MR. STEPHANS: Any other questions?

7 CHAIRPERSON LLOYD: Thank you.

8 Gary Caseri, Jim Hemminger, Bob Reynolds.

9 We'd appreciate it if you could keep the
10 testimony fairly short. We're running out of some time.

11 I'm worried about losing some of my quorum.

12 MR. CASERI: Actually, I was going to say I was
13 going to be brief.

14 CHAIRPERSON LLOYD: Okay, thank you.

15 (Laughter.)

16 As briefAs possible.

17 Good afternoon. My name is Gary Caseri. I'm the
18 Tuolumne County Air Pollution Control Officer. On behalf
19 of Tuolumne County Air Pollution Control -- on the behalf
20 of the Tuolumne Air Pollution Control District and its
21 board, I'd like to offer the following comments.

22 We are opposed to the recent draft of this ATCM.
23 Tuolumne County has, for some time now, prohibited most of
24 the disallowed combustibles proposed in this document. We
25 request your board approve an ATCM with allowances for the

1 continued burning of paper and cardboard.

2 We request this in light of the lack of data
3 that's been mentioned previously, with respect to paper
4 and cardboard. The current exemptions based on zip codes
5 fail to adequately address our concerns and I haven't read
6 the most recent version that was put out today.

7 In general, Tuolumne County is opposed to the ban
8 on burn barrels and firmly believe that it is more
9 appropriate and fair to -- firmly believe in active
10 enforcement and educational program is more appropriate
11 and fair to the public we serve.

12 With that, I'd like to offer to continue working
13 with ARB staff to finalize a document that meets the needs
14 of more rural counties or districts such as Tuolumne
15 County.

16 Thank you.

17 CHAIRPERSON LLOYD: Thank you very much.

18 Questions?

19 Thank you.

20 MR. HEMMINGER: Hi. My name is Jim Hemminger.
21 I'm here today representing the Regional Council of Rural
22 Counties, RCRC.

23 Perhaps one of the advantages or good points of
24 this proposed ATCM is that it did provide the rural
25 counties and Air Board staff some of you to become

1 familiar with each other, as we never have before. This
2 is a big issue in our rural counties.

3 RCRC is comprised of 29, pretty much the 29
4 smallest counties in California. Its board includes
5 county supervisors who have been appointed by each
6 county's full board of supervisors to represent their
7 county.

8 Over the past several months, we've discussed
9 this within our board meetings and were fortunate enough
10 and appreciate presentations by Air Board staff. Not
11 unlike CAPCOA a fair diversity of opinion within the
12 organization. As you're hearing today, most of the smaller
13 counties have strong opposition to the ATCM.

14 We do offer, and I hope you have a copy of the
15 letter we prepared, putting together a position of the
16 organization. As you've heard some member counties take a
17 much stronger position opposed to this in consideration of
18 the fact that we recognize that some regulations are going
19 to be -- are being put forth. We have been fortunate
20 enough to work with Air Board staff to look at proposals
21 and evaluate them.

22 And as stated in the letter, we generally support
23 the concept behind the proposed regulation as it's been
24 modified, but would suggest some specific modifications
25 and urge your consideration for those.

1 Burning of garbage statewide, hard to take
2 exception to that. Tiered regulatory program, that makes
3 sense, especially when you're talking health risks. It is
4 related to density. A lot of us picture Sonoma County, it
5 is rural county, but it's got 450,000 people in it.
6 What we're talking about and a lot of the
7 opposition maybe you've heard this morning, are from our
8 small counties, with Sierra with 3,000. As you pointed
9 out, Mr. McKinnon, Siskiyou, one of the larger counties is
10 43,000 people, about enough to fill Enron Field. Modoc
11 just about would fill the ARCO Arena. Not a lot of people
12 spread out over a wide area. Given this, we do support
13 the tiered approach.
14 We do question, however, the numbers that are
15 being proposed. And in the letter we do suggest instead
16 of the light green areas, instead of being from three to
17 ten people per square mile, we're suggesting 20 people per
18 square mile, As more reasonable alternative and more
19 consistent with the scientific basis.
20 As Mr. Fletcher did point out there is a
21 uncertainty in the scientific analysis. I won't try to
22 compete with the statisticians, but it's, As Mr. Fletcher
23 said, trying to reach a balance between the risk factors
24 and the reasonableness.
25 I do realize that the statute gives the Air Board

1 pretty wide latitude when it comes to ATCMs and regulating
2 those.
3 But statute does also limit it to the
4 practicableness. We need to understand, people have
5 spoken about not wanting a burn barrel under their
6 apartment window. That's not the issue here with many of
7 our rural counties.
8 I forget the gentlemen, a doctor spoke about his
9 obnoxious neighbor on his one acre parcel, getting burn
10 barrels smoke. Again, that's not what we're talking
11 about. The ten people per limit, say two or three people
12 per household, we're talking two or three houses per 640
13 acres.
14 The three limit that's being proposed for the
15 dark green is one house per 640 acres. Most houses, even
16 in Siskiyou county, if you will, only one out of six
17 houses are using their burn barrels. So we're talking
18 here what is the density's threshold that we would
19 suggest As a reasonable balance between risk, cost of
20 enforcement and other environmental factors.
21 Without going on, I do mention in my letter we do
22 suggest numbers which we do feel are reasonable, are
23 defensible and we would really ask for your consideration
24 of that.
25 Parceling out of a zip code map, we think that is

1 an excellent opportunity, but the suggested three people
2 per square mile seems unnecessarily restrictive.
3 I do have, and I will try to brief, a couple
4 other comments. The first two comments actually here have
5 been superceded, if you would, by staff's latest proposal
6 by pretty much what I just suggested.
7 Transition period is my next suggestion.
8 Regardless of the number, balancing cross-media
9 environmental impacts. There are concerns about illegal
10 dispose. There are concerns that people, no longer able
11 to burn, would be stock piling their garbage on their
12 private property.
13 If you look at the map, it seems like there's a
14 lot of dark green, a little deceptive, because most of
15 that is public lands, government lands. And part of the
16 reason it's dark green and fits within the zero to three
17 threshold, is the fact that very few people are living on
18 the public lands.
19 To a lot of our rural counties that dark green
20 looks like the areas of illegal disposal. In a lot of
21 areas within the zip codes hopefully we can have or put
22 together some sort of program for an alternative solid
23 waste collection system, but my proposal is to provide
24 some regulatory ability for local air pollution districts,
25 if they do have a particular area that may exceed a

1 threshold posing particular problems with garbage
2 collection or other competing environmental needs, to give
3 them the option of petitioning the Air Board for a
4 four-year extension, with some findings about the
5 environmental impacts and perhaps some commitment to do
6 some mitigating measures within that four-year period.
7 Second to last.
8 CHAIRPERSON LLOYD: Quickly.
9 MR. HEMMINGER: We would suggest --
10 CHAIRPERSON LLOYD: The last one in terms of more
11 funds, you can save some time on that one.
12 MR. HEMMINGER: Funding would be great. A lot of
13 our guys only have a half time person doing air pollution
14 control. We've talked about 100,000 burn barrels, lot of
15 work for one guy.
16 Education. That's the one thing we all agree on.
17 And I would like to suggest, there's no -- education is
18 difficult in a rural county. I've tried it. It takes a
19 lot of time, effort and thought. And while supporting
20 that aspect of the regulation, I would suggest at some
21 point maybe through a workshop before the regulations take
22 effect, we do have an opportunity to come before you and
23 assess the effectiveness of that public education program.
24 Regardless of the numbers we come up with, that
25 is going to be the key to the success of this program.

1 Our guys want to work together with you on the program,
2 but we do need to be sure that that does achieve its
3 desired objectives.

4 CHAIRPERSON LLOYD: Thank you very much, in deed.

5 Thank you, for coming before us.

6 Bob Reynolds, Dean Wolbach, Todd Nishikawa.

7 MR. REYNOLDS: For the record, my name is Bob

8 Reynolds. I'm the Air Pollution Control Officer of Lake

9 County Air Quality Management District. I have a Masters

10 of Science degree with a specialty in control equipment

11 design, an undergraduate degree in chemistry. I've had a

12 chance to follow this issue for a long time. I actually

13 worked for the Air Resources Board and worked on the

14 toxics issues in the early seventies I guess.

15 Dioxins, you know, it's really unfortunate that a

16 lot of people here today do not understand the process.

17 You've already decided dioxins is a terrible compound,

18 terrible molecule. It causes a lot of health problems.

19 That's not an issue anymore. People that don't

20 understand that Agent Orange affects the Vietnam veterans.

21 Many of my friends still suffer from that. That they

22 cause teratogens. The discovered they cause miscarriages

23 and deformed horses. That's the initial way that dioxins

24 were discovered as a problem in our country.

25 I mean, there's a really terrible history. In

1 fact the popular press calls this molecule the monster

2 molecule. It's for good reason. It's reputation well

3 earned.

4 And people that are worried about other things in

5 environment, whether it be in our air, land or water have

6 got to pay attention. Now, we banned burn barrels in

7 about 1995, primarily because we had banned garbage

8 burning in the late to mid-eighties and found that we

9 could not keep the garbage out of the burn barrels.

10 It's just an honest statement to you is, if you

11 don't ban burn barrels, you're going to have garbage

12 burned, accept that fact.

13 And there is a study in Attachment to the letter

14 that I sent to you that shows you what we did in Lake

15 County. And we made this decision based upon what we

16 consider really good information and honest information.

17 The reason that we made the decision to ban burn barrels

18 then, is the literature that you're talking about today,

19 the risk assessments that everyone is concerned about,

20 it's been out there for seven years. It just got peer

21 reviewed and published in the year 2000. That's what made

22 it different. So it's been a well known fact among people

23 that specialize in air pollution control for a long time.

24 The other points, I want to make is that we

25 banned burn barrels in 1997 in Lake County. It's a rural

1 county. We banned them countywide. No exceptions for
2 nothing. We did review that about a year ago. No one
3 showed up wanting the burn barrels back. Everyone
4 accepted it well, not a single person stood up to say give
5 me back my burn barrel. They all agreed it was a good
6 move. It took courage from the Board that wasn't
7 unanimous when they did it.

8 And frankly I've heard, Joe Moreo and I, in spite
9 of our differences, are pretty good friends, at least when
10 we're we drinking.

11 (Laughter.)

12 MR. REYNOLDS: And the bottom line is I heard the
13 same things you've heard, being good public servants,
14 understanding that you're charged with implementing air
15 toxics control measures. The Legislature charged you with
16 that.

17 You're going through a process that you have to
18 go through, and people's real health, and, you know,
19 you're standing up to emphasize children. I think one of
20 the most sinister things about this particular kind of
21 poison is it causes deformed children. And that's well
22 known. It's just not emphasized because no one know how
23 to quantify it.

24 No one can get enough data together, statistics,
25 to make everyone just feel lovely and wonderful that we

1 should bring that out to you, but it's fairly well
2 accepted.

3 And then the other thing I guess that, you know,
4 I won't repeat everything in my letter because you haven't
5 told me I have two minutes yet.

6 But the bottom line is that you have some
7 testimony from the fire chiefs and stuff. I will point
8 out that I did attach the Fire Chiefs Association from
9 Lake County's letter. We very much involve our fire
10 chiefs as well as your community in any kind of -- I've
11 heard the work ordinance or actually regulations that in
12 our case, at least every time we can, they end up in the
13 State Implementation Plan, so they're also federal laws.

14 And our community has well accepted the fact that
15 we shouldn't burn garbage. I mean, I think they're
16 actually proud of it. The fire chiefs are very
17 participatory in the process. And they made several
18 points. And one of them is is that burn barrels do cause
19 escape fires, they do cause fires. If you don't want to
20 have a fire, you don't want your national forests to burn
21 down, ban residential burning. It would be a good for
22 staff.

23 And the second thing they point out, which I
24 think is really good for them. It says -- I'll just read
25 from it, it says, "The program that moves the State

1 forward into the 21st Century benefiting the public health
2 and fire safety..."

3 And they're urging you to act today. I'm urging
4 you to act on the staff's proposal. I think it's way past
5 time.

6 With that, I'll take questions.

7 CHAIRPERSON LLOYD: Thank you very much, Bob.
8 And thank you for providing this for the work you've done
9 on this as well.

10 When did you say you passed the ban?

11 MR. REYNOLDS: 1997.

12 CHAIRPERSON LLOYD: Yes, Ms. D'Adamo.

13 BOARD MEMBER D'ADAMO: I really appreciated not
14 just your letter but the attachment and want to compliment
15 you. We've received a lot of anecdotal information, but
16 yours is very comprehensive and I think tells -- gives a
17 good accurate picture of what's out there.

18 I'd also like to encourage you to go on the road
19 and let some of the other air districts see that it can be
20 done. It's not just ARB shoving this down their throats,
21 but that it can be done at the local level with vision.

22 Thank you very much.

23 CHAIRPERSON LLOYD: With a clean vehicle of
24 course.

25 MR. REYNOLDS: If ARB would get off the dime and

1 buy all the districts one, we'd have one.

2 BOARD MEMBER RIORDAN: Mr. Chairman, one of the
3 issues that we've heard today happens to surround money.
4 And what is your experience in terms of enforcement, has
5 it created a huge burden to you or have you been able to
6 absorb it within your budget?

7 MR. REYNOLDS: I've attached to you a letter from
8 the Fire Chiefs Association and the district, signed by me
9 and it's in our staff reports that have been early
10 provided, we clearly state that we think it's a benefit to
11 the cost.

12 In other words -- and maybe some of these air
13 districts don't take complaints. I can't imagine How you
14 can burn garbage and be in any proximity and not get
15 complaints. It overwhelmed us. In the Fire Chiefs letter
16 they mentioned false fire alarms.

17 Basically, burning garbage, smells like a burning
18 house. People report a burning, you issue a fire engine
19 out there. You finally get out there and you find it's
20 burning garbage. My personal thing is that happens pretty
21 often.

22 I have the good fortune actually to have a Fire
23 Chief that used a burn barrel the caught his garage on
24 fire when we were discussing it, and it made real obvious
25 anecdotal information.

1 (Laughter.)
2 MR. REYNOLDS: But the bottom line is people
3 cheat with the burn barrels. The fire chiefs know that.
4 And I think anyone that looks knows that. They burn
5 they're not supposed to burning at all. In fact, I've
6 even heard some air officials say that.
7 And that's, you know, that's just something that
8 happens. And when we talked among ourselves as
9 professional people, no one believes they use burn barrels
10 and don't put garbage in them. Everyone believes they
11 have garbage in them.
12 BOARD MEMBER RIORDAN: Thank you.
13 CHAIRPERSON LLOYD: Thank you.
14 Mr. McKinnon.
15 BOARD MEMBER McKINNON: Yes, on that point
16 exactly. I thought I was hallucinating when I was hearing
17 that burn barrel -- I've seen a burn barrel or two and
18 they burn trash in them. That's what people do.
19 And your study was real helpful. It identified
20 --
21 MR. REYNOLDS: I appreciate that. Because some
22 of that stuff is really gross.
23 BOARD MEMBER McKINNON: I mean, once in awhile
24 you had a good actor in here, once in awhile.
25 CHAIRPERSON LLOYD: Thank you very much.

1 MR. REYNOLDS: Thank you.
2 CHAIRPERSON LLOYD: Dean Wolbach, Todd Nishikawa,
3 Wayne Morgan and David Jones.
4 MR. WOLBACH: Mr. Chairman, ladies and gentlemen
5 of the Board. My name is Dean Wolbach I'm the Air
6 Pollution Control Officer for Mendocino County.
7 I am here today in support of the ATCM. And the
8 first thing I should say is that Bob has been banned in
9 several counties already.
10 (Laughter.)
11 MR. WOLBACH: I am not here in support of this
12 because it is perfect, this ATCM, nor because it won't
13 cause me a lot of heartburn, both me and my district in
14 enforcing it. But I'm here because it is a step in the
15 RIGHT direction.
16 As Bob alluded to burn barrels are used to burn
17 garbage. I'm fortunate in my district to already have
18 regulations banning the burning of garbage period. We
19 find it. Time and time again we find it in burn barrels.
20 People think that if they have a burn barrel,
21 it's to burn garbage. I don't think, at this point, that
22 most of my county it is a serious health effect at this
23 time. I know that it will become so, because my county,
24 my district, is going to tip from basically a rural
25 agricultural area into a suburb area probably within the

1 next ten years.

2 If we don't start now to put these bans into
3 effect, get people used to not using burn barrels, which
4 they're not supposed to be doing through the six months of
5 the year when the fire ban is on, and they still do, it
6 will be just that much more difficult as the population
7 grows.

8 I have rather a unique background coming here I
9 notice. I've been in the regulatory end of this now for
10 about three or four years, but I do have a Ph.D in organic
11 chemistry. And I spent over 30 years working on
12 incineration and pollution control.

13 I was actually with the people and in the same
14 company and organizations that did the earlier research on
15 the generation of dioxins in incinerators and in
16 generation of dioxins in burn barrels.

17 At the time we began to get this information out,
18 which was in the early eighties, we said to ourselves, oh,
19 the problem isn't with the incinerators, it's with the
20 burn barrels. And we told EPA this in no uncertain terms.
21 They said we can't do anything about that now. But we
22 knew it then and it is here now.

23 I would also like to read a short quote from an
24 article, Environmental Science and Technology that came
25 out about 18 months ago, and this gets to the heart of the

1 issue.

2 "Historically, the principal health concerns for
3 waste incineration were mainly focused on communities
4 living near the incinerators."

5 The National Research Council report more
6 comprehensively identifies three populations at risk,
7 including the local population, the workers and the larger
8 regional population who may be remote from any particular
9 incinerator, but who consume food, as per the risk
10 assessment, potentially contaminated by one or more
11 incinerators and other combustion sources that release the
12 same persistent and bioaccumulated pollutants.

13 There has been some talk here about but our trash
14 stream is different. The generation of dioxins is based
15 upon the temperature regime, the presence of organic
16 material, the presence of a chloride source, which
17 includes salt, and the presence of a metal, preferably
18 copper, but iron works fine. And you can generate all the
19 dioxins you want.

20 One and a half pounds of dioxin represents about
21 700 times ten to the 12th nanograms of dioxins. I believe
22 that a toxic effect can be seen in humans from some of the
23 earlier exposures at about ten to 15 nanograms.
24 Therefore, if the people were directly contacted by the
25 amounts of materials that are being generated through

1 these systems, we definitely would have a major health
2 problem.

3 With that, I only have one other thing to say. As
4 a bureaucrat now enforcing regulations, I always look to
5 the Constitution for my reasons for doing this, "promote
6 the general welfare."

7 Thank you.

8 CHAIRPERSON LLOYD: Thank you. May I suggest you
9 join Bob on the tour. You'd make an excellent pair there.

10 Any questions or comments?

11 Thank you very much.

12 Todd Nishikawa, Wayne Morgan and David Jones.

13 MR. NISHIKAWA: Mr. Chairman and Members of the
14 Board, my name is Todd Nishikawa. I'm Acting Air
15 Pollution Control Officer for Placer County. And I'm here
16 representing the district board who has adopted a position
17 with regard to the proposed ATCM.

18 Our board supports the adoption of the ATCM kind
19 of conditionally. They support the ATCM, but they believe
20 that, As some speakers have previously said, that the
21 banning the burn barrels is not the intent of the measure,
22 but the measure's intended to prevent garbage and other
23 materials from being burned.

24 In Placer county we do currently allow paper and
25 cardboard to be burned, and we agreed that the prohibition

1 of burning that material is something that needs to be
2 done. However, in deference to Bob Reynolds, we do not
3 believe that there is sufficient justification regarding
4 the potential misuses of burn barrels to ban the barrels.
5 And that burn barrel can be used to safely burn vegetative
6 waste and enforcement measures can be taken with regard to
7 illegal burning.

8 And that it is the material in the burn barrel or
9 in an open burn pile that is of concern and not the burn
10 barrel itself. And it has been stated by other speakers
11 today, the district does not wish to become burn barrel
12 please. I do not believe that fire districts wish to
13 become burn barrel police, but we would be more than
14 willing to enforce regulations regarding material that is
15 burned, and that's all I have.

16 CHAIRPERSON LLOYD: Thank you very much.

17 Any questions?

18 Mr. McKinnon.

19 BOARD MEMBER McKINNON: How does not being burn
20 barrel police differ from not being police of what's in
21 the burn barrel? I'll tell you there's studies and
22 there's personal experience that says people burn trash,
23 most people burn trash.

24 And, you know, we get things like 6,000 people
25 burning in a county and there's five enforcement actions

1 for -- it flies in the face of the reality of this.

2 So how do you get into policing what's in the
3 barrel as opposed to whether or not there's a barrel
4 there, I don't get it?

5 MR. NISHIKAWA: Well, I think that the question
6 that we would have to address if we did ban burn barrels
7 is why we were banning a burn barrel? When someone was
8 wishing wish to burn vegetative materials in a safe
9 manner.

10 And so we would have difficult explaining why
11 we're banning a burn barrel, and coming out, for example,
12 finding somebody who's burning vegetative materials
13 telling them you couldn't burn it in a burn barrel,
14 because that's what the regulations stated even though we
15 didn't burn paper.

16 In Placer County we have -- you know, we don't
17 have a perfect enforcement system but we have a relatively
18 aggressive system. You know, we have limited staff but we
19 still try to enforce the rules.

20 With regard to the burning of garbage that does
21 occur, but, you know, it's probably going to occur even if
22 ban paper and burn barrels. I think that the need there
23 is to have aggressive enforcement and to have a strong
24 education effort to go along with that.

25 You have asked, you know, previous speakers

1 regarding whether or not -- you now how many enforcement
2 actions they've taken. In Placer County we probably get
3 maybe 150 to 200 complaints a year. The majority of which
4 are regarding burning of one sort or another.

5 And we in the past year in 2001, we probably have
6 collected approximately \$30,000 in fines regarding those
7 violations, as well as provided warnings and education
8 materials to burners.

9 So I think that, in our view, it's not the burn
10 barrel that is at issue, it's the material, in that, both
11 the education effort and enforcement effort would go far
12 toward eliminating the burning of that bad material.

13 BOARD MEMBER McKINNON: Thanks.

14 CHAIRPERSON LLOYD: Thank you very much.

15 Wayne Morgan and David Jones.

16 MR. MORGAN: Mr. Chairman and Members of the
17 Board, our Board Chair was supposed to be here this
18 morning and he got fogged out in Eureka, so he was going
19 to make the presentation.

20 I'll try to summarize his comments to the Board,
21 however, which represents the position of the North Coast
22 Unified Air Quality Management District.

23 CHAIRPERSON LLOYD: Which it's supportive.

24 MR. MORGAN: He is supportive. And he's, not
25 only he, but our entire board, was supportive based upon

1 the review of the health effects from residential burning,
2 burn barrel burning. It was very convincing to them that
3 something needs to be done.
4 CHAIRPERSON LLOYD: That would be excellent,
5 unless you had anything more to add to that.
6 (Laughter.)
7 MR. MORGAN: This is very brief, isn't it.
8 (Laughter.)
9 MR. MORGAN: There's a couple of things I'd like
10 to add because the Board did have some concerns. With the
11 zip code method, I think the staff has corrected those. I
12 might add is that we were the district that decided that
13 that could be a viable method of determining population
14 density with a zip code. We proposed it to CAPCOA.
15 CAPCOA proposed it to the ARB and here we are today.
16 CHAIRPERSON LLOYD: Great.
17 MR. MORGAN: Once in awhile rural districts do
18 things correctly.
19 CHAIRPERSON LLOYD: Particularly today.
20 MR. MORGAN: One of the concerns that our board
21 had was in California communities and it was echoed here
22 earlier, there's a law that required districts to divert
23 up to 50 percent of their waste by, I think it was,
24 January of 2000.
25 Humboldt County and our district have achieved

1 that 50 percent diversion. And their concern was is that
2 they should not be penalized because of some kind of
3 backsliding as result of the ATCM going into effect. So
4 they were asking that perhaps, and I think staff has
5 discussed with the Integrated Waste Management Board, and
6 I think, if my read on that is correct, is that there will
7 be no penalties for that type of backsliding.
8 CHAIRPERSON LLOYD: Thank you.
9 MR. MORGAN: There's no mention in this staff
10 report of any additional funding being made available for
11 the public outreach, the public education. And, I think,
12 we all agree that this is a very important part of the
13 ATCM.
14 One could argue that should the education be
15 before the regulation, my experience and my bias is that
16 you have to have a regulation followed by education to
17 make it effective. That's my bias.
18 I think it's appropriate for me to be towards the
19 end of this presentation. As you recall, I was here
20 before the Board last June, and I was here advocating that
21 you direct staff to expedite the process to go forward
22 with an ATCM for the burn barrels residential burning.
23 That was the result of looking and reviewing
24 evaluating the data that came out of the New York health
25 study, the EPA joint study with New York health. And it's

1 appropriate here today to finalize this. And we certainly
2 would recommend that you support your staff by adopting
3 this regulation today.

4 The other thing that hasn't been mentioned here
5 today, which I want to make you aware of is that even
6 though this ATCM is directed towards dioxin and the
7 reduction of people's exposure, there will be many other
8 benefits of toxic air contaminants such as Benzene,
9 1,3-Butadiene, PAHs and many more that will be reduced and
10 will in turn reduce people's exposure to those toxic air
11 contaminants as a result of this ATCM.

12 From that standpoint, I would beg that you go
13 forward and adopt the ATCM. It's reasonable.

14 CHAIRPERSON LLOYD: Thank you very much. Again,
15 than you for all your help and your comments last year
16 too. That's helpful.

17 I thinkAs question.

18 Wait, Mr. Morgan.

19 BOARD MEMBER RIORDAN: I want to hear That Mr.
20 Kenny was to say and then maybe I don't have a question.

21 EXECUTIVE OFFICER KENNY: I wanted to respond to
22 the one statement that Mr. Morgan made with regard to the
23 Waste Board. I mean, we actually have worked with the
24 Waste Board and we are trying to continue to work with the
25 Waste Board cooperatively. We've had a good solid

1 relationship with the Waste Board, and I'm sure that will
2 also relate to the districts.

3 At the same, I don't think the waste Board can
4 make a blanket statement that, in fact, any backsliding
5 would essentially be immune from any kind of prosecution
6 or penalties. You know, I think the Waste Board will try
7 to work with us. That's been their statement and their
8 posture all along, but I have not heard that from the
9 Waste Board, and so I would not want to essentially
10 characterize any of the Waste Board's cooperation or
11 coordination with us to essentially kind of have an
12 immunity from any kind of prosecution.

13 Number one, I don't think the staff of the Waste
14 Board has said that. And number two, the Waste Board is a
15 Board. And so, you know, the Board is going to direct
16 policy for the Waste Board.

17 MR. MORGAN: And I may have mischaracterized that
18 statement as well.

19 BOARD MEMBER RIORDAN: Let me just say there's
20 another component, and I tried not to take too much time,
21 but thereAs recycling component. Those people who have
22 discussed, say, burning of paper, we really should be
23 recycling that paper. We should not be burning the paper.

24 So there's more than one part of this and some of
25 it is, too, of course, keep these things from landfills.

1 That's another hat that the supervisors must wear. But
2 the big part of this is the recycling program, and to make
3 it all work well.
4 So we appreciate your comments.
5 MR. MORGAN: Thank you very much.
6 CHAIRPERSON LLOYD: Thank you, Wayne.
7 The last witness is David Jones.
8 MR. JONES: Mr. Chairman -- can you hear okay?
9 CHAIRPERSON LLOYD: Yes.
10 MR. JONES: Ladies and gentlemen of the Board, my
11 name is David Jones. I'm the air quality specialist for
12 the Robinson Rancheria Pomo Indians. It's a small
13 Rancheria in Lake County, Bob Reynold's, north shore or
14 Clear Lake. We're bisected by Highway 20.
15 I must say right upfront, and this is a
16 disclaimer from a tribal point of view, I don't speak for
17 the tribe. I can't speak for the council. They're
18 elected government. This is my professional and personal
19 opinion.
20 Personally and professionally I'm in favor of a
21 burn ban for burn barrels. Well, dealing with the burn
22 barrels.
23 The Council for the Rancheria passed an ordinance
24 six months ago doing exactly that, much simpler than
25 yours.

1 (Laughter.)
2 MR. JONES: Very simple.
3 (Laughter.)
4 MR. JONES: But there was a lot of education and
5 outreach that went out and was begun a long time before
6 that, so that -- and I'll explain, we have a small
7 subdivision of, like, 22 homes and small a apartment
8 complex of another 12 apartments.
9 We had approximately 20 burn barrels when we
10 started. By the time the ordinance got passed, we had
11 one, and that individual is still resisting, so we have
12 just passed an ordinance for enforcement and a penalty
13 dollar amount.
14 So most of the points in regards to this proposed
15 regulation I find are valid considerations. Both the
16 education, the enforcement, we don't have really any costs
17 associated with it.
18 But we found that there was more to it than just
19 the dioxins and the actual chemicals. We found that it
20 was noxious, it was unsightly, and a potential fire
21 hazard. We went through all the same sorts of things that
22 you're discussing.
23 People tend to burn anything and everything. So
24 they all have to pay to take their garbage to the
25 landfill, sometimes they don't have transportation,

1 sometimes they don't have the money, for whatever reason.
2 They tend to put everything in there. Glass bottles,
3 clean cans, rubber, clothes. You name it, it will tend
4 to go in there.

5 With the banning of the burn barrels, the next
6 step people tended to burn in their fire places or
7 wood-burning stoves. All of our units have wood-burning
8 stoves, so they're controlled combustion. That's still
9 only a help to a limited extent.

10 Pretty soon they got tired of the smell, so they
11 only burned paper and cardboard. You know, everything
12 else went out into the rubbish.

13 We encouraged them to stop by increasing the
14 number of cans they had to pickup by the local garbage.
15 We do recycling at the rancheria. Paper and cardboard, by
16 the way, doesn't generate much in the way of money for
17 recycling. It's very minimal.

18 And most of the people eventually stopped burning
19 because it was simply just put it out in the trash, and
20 That's curbside pickup.

21 Like I said, I've got one individual that it's a
22 routine. I don't know if it's exactly cultural or not,
23 but he's still burning, not very frequently. We've got
24 him reduced now.

25 But all that said, like I mentioned earlier, I'm

1 in favor of banning of burn barrels. So the unofficial
2 personal point of view is just that. I might suggest that
3 when you contact, you know, agencies and government groups
4 and whatever about proposed regulations that maybe you
5 include tribes in that list.

6 Around the lake, we formed an environmental
7 consortium, so it's really easy to contact us. Otherwise
8 there's more than 100 tribes and the list is fairly long.

9 CHAIRPERSON LLOYD: Is there something equivalent
10 for the State that would be similar to CAPCOA for the
11 rural counties, is there a central point we can utilize?

12 MR. JONES: ITCA, I think, is the closest, the
13 tribal council. That's probably the closest. The Bureau
14 of Indian Affairs regulates the trust lands, doesn't have
15 a complete list. It's changing. For example, there are
16 six tribes around the lake. A new one was just
17 recognized, so there's now seven.

18 CHAIRPERSON LLOYD: Maybe we can get staff to
19 look at that.

20 MR. JONES: EPA doesn't have a complete list. I
21 maintain a list for about six counties, just for that
22 reason, that those are the people I network and deal with.

23 But I can find out, you know, for you.

24 CHAIRPERSON LLOYD: We'd appreciate it.

25 MR. JONES: Because that would simplify a lot of

1 things. Tribes in California are all neighbors. We've
2 only got one air shed to work with really. What we
3 generate goes your way and vice versa.
4 CHAIRPERSON LLOYD: Thank you very much.
5 MR. JONES: Questions?
6 CHAIRPERSON LLOYD: Thank you very much.
7 MR. JONES: So you're finished.
8 CHAIRPERSON LLOYD: Yes.
9 Mr. Kenny, do you have any further comments?
10 EXECUTIVE OFFICER KENNY: No.
11 CHAIRPERSON LLOYD: I will now close the record
12 on this agenda item. However, the record will be reopened
13 when the 15-day notice of public availability is issued.
14 Written or oral comments received after this hearing date
15 but before the 15-day notice is issued will not be
16 accepted as part of the official record on this agenda
17 item.
18 When the record is reopened for a 15-day comment
19 period, the public may submit written comments on the
20 proposed changes which will be considered and responded to
21 in the final statement of reasons for the regulation.
22 And to my colleagues here, do you have any ex
23 parte communications to divulge at this time?
24 Seeing none, I guess we are open for discussion
25 and review of the motion.

1 BOARD MEMBER RIORDAN: Mr. Chairman, I'm just
2 wanting to underscore something that is in the resolution
3 that's before us. And that is in talking about the
4 Integrated Waste Management Board and working with them,
5 we need to be very well coordinated because there may be,
6 in deed, if we pass this, some additional interest in
7 going to landfills by people that normally use the burn
8 barrels.
9 But in four it does indicate that there might be
10 some financial support for boosting recycling centers or
11 perhaps even transfer stations to make recycling and
12 getting rid of waste easier for the general public.
13 And I would encourage us to, sort of, underscore
14 that with our staff, because I think that along with the
15 education is going to make it work quite well, if this, in
16 deed, is supported.
17 And it is my understanding that that money easily
18 could be used. That's a perfect purpose for some of the
19 monies that the Integrated Waste Management Board
20 oversees. It's just a perfect use of that kind of money,
21 so I'm very supportive of that.
22 CHAIRPERSON LLOYD: I have a couple of questions
23 for staff, and maybe you know the answer to this, but
24 would more time be helpful in resolving the differences
25 with the rural counties?

1 EXECUTIVE OFFICER KENNY: We don't think so.
2 What we tried to do is actually provide some additional
3 time for implementation, but at the same time we do think
4 that we have, at least, kind of, a reasonable approach
5 here. One of the requests from the rural counties was
6 kind of the reliance upon an educational component, almost
7 exclusively, because, you know, the thought was is that
8 education really would be the solution here.

9 We don't think that's the proper solution. We do
10 think that, essentially, you know, banning burn barrels
11 really will provide the solution that we're looking for.

12 CHAIRPERSON LLOYD: I was aware of a comment
13 about maybe even an extension of the time period for
14 implementation. Is that available? Is the option
15 available if a particular county wanted to apply for an
16 extension?

17 EXECUTIVE OFFICER KENNY: We don't have that in
18 there currently. What we tried to do with this regulation
19 was minimize the amount of discretion that would be
20 associated with the regulation, and really set the
21 regulation up so that it was almost self implementing.

22 We were trying to do that in order to avoid kind
23 of a, almost like sort of a cookie cutter approach. And
24 so we think right now that if we set it up in a way in
25 which it is fundamentally self implementing with the

1 exception of kind of subdivisions on the zip codes.

2 And that at the same time we have basically, you
3 know, extend out the implementation timeframe until 2004.

4 So between those things, we think that we
5 actually have a Regulation that is fairly straightforward,
6 has very limited discretion in it, and is essentially
7 self-implementing, which we thought was all beneficial.

8 CHAIRPERSON LLOYD: On the education side of it,
9 of course we heard a lot about this. But also I think
10 there was a real need to work with the districts and with
11 the counties thereAs we go ahead on the implementation of
12 this. I'm read this, from what staff is saying, you'll
13 continue to work with them on the education side.

14 EXECUTIVE OFFICER KENNY: We do think education
15 is very important. In fact, when we have spoken with the
16 RCRC, and Jim Hemminger has been very helpful throughout
17 the process, I mean, he has highlighted and the RCRCAs
18 really highlighted the value of education and we do not
19 disagree with them at all. We think they're right.

20 BOARD MEMBER RIORDAN: Also, Mr. Chairman, I
21 think we would make use of some of those air pollution
22 control districts that have in place this ban and their
23 successes.

24 And while I recognize there are some very rural
25 counties that we've heard from today, I just remind you,

1 say for instance the Mojave Air Basin, which I represent,
2 we have probably over 22,000 square miles. And in that
3 22,000 square miles, there is real rural area. Rural that
4 would equate to anything that any of the northern counties
5 might have. And we've had a burn, no burn, for an
6 extended period of time.

7 It can be done, and it is within your ability to
8 do. You've got to have support. But I can tell you that
9 there isn't anyone who would go back to the old days of a
10 burn barrel. It can be done in the most rural of areas.

11 So I just say that from my personal experience.

12 CHAIRPERSON LLOYD: Thank you.

13 Any comments?

14 Mr. McKinnon.

15 BOARD MEMBER McKINNON: I'm real interested in
16 making sure that the bulk of what we do is in populated
17 places. And that in places where there are very few
18 people, we're not as stringent. And I think the zip code
19 and subdivision of zip code goes along way to deal with
20 that.

21 However, after we discussed that, there were a
22 couple of comments about people being across the street in
23 a different zip code or something like that. Is it not
24 possible -- for the record, my understanding of it is then
25 you subdivide two zip codes, so that you get the urban

1 area or the most populated, densely populated, area
2 regulated so people are not burning trash for other people
3 to breathe.

4 And that in the outside of those subdivisions
5 where you get to the lower density, then the exemptions
6 take place.

7 EXECUTIVE OFFICER KENNY: The way we've tried to
8 craft the subdivisions on the zip codes is that we would
9 subdivide zip codes down into the zero to three area. And
10 we do think that, in fact, what that will do is that will
11 result in essentially eliminating people who are in those
12 very kind of nondense areas, and we'll exempt them from
13 the regulation.

14 We don't think that, in fact, this kind of
15 person-who-crosses-the-street concept is really going to
16 be very applicable in that situation, primarily because of
17 the fact that if we're subdividing zip codes we are down
18 to the zero to three per square mile area. And so it's
19 very unlikely that we would run into that kind of a
20 situation.

21 If we try to do multiple zip code subdivisions,
22 we're afraid that what will happen is that we'll get into
23 a situation in which we don't have a regulation that
24 essentially is easy to implement. In fact we're having to
25 make decisions across the State in those areas on very

1 small geographic determinations.

2 So we're trying to avoid that, and at the same
3 time recognize that because we're in the zero to three
4 area, we shouldn't have, you know, the neighbors across
5 the street where one can and one can't burn.

6 BOARD MEMBER McKINNON: Then I would really
7 want -- if we ended up with a strange result that came out
8 of this, I would want us to have the ability to alter
9 that. You know, if it really truly turned out that you
10 got most of a population, the dense population, and there
11 was a street, and you had a little bit more dense
12 population, and there were two different sets of rules and
13 divided it, kind of, if that would really happen, if
14 that's even possible.

15 EXECUTIVE OFFICER KENNY: We don't think that
16 will happen. However, we do hear -- if you can think
17 back -- if we do have that sort of inequitable result is
18 something we would want to look at and will probably bring
19 back to you.

20 But we don't expect that happen. And so as we
21 basically sort of -- if we were move to forward with
22 implementation of this reg, I mean, we will continue to
23 monitor it. We'll do the education and outreach. And if
24 we see that, we'll bring it back.

25 CHAIRPERSON LLOYD: Ms. D'Adamo.

1 BOARD MEMBER D'ADAMO: Yes. I was going to
2 suggest that staff come back with a report in, I don't
3 know, say six months or a year, whatever staff would think
4 would be most workable, to report on the zip code issue.
5 Maybe give us a map so we can see just how it works out in
6 terms of real practice.

7 And then also if staff could report back on the
8 public outreach and education efforts, enforcement, I'm
9 curious to see is this something that's just going to be
10 put on the books and -- it's a real funding issue, so it's
11 my hope that this will drive the local communities to
12 expand garbage collection and recycling services. And I'd
13 be curious to see what it looks like, you know, in a year
14 from now.

15 EXECUTIVE OFFICER KENNY: Actually, if I could
16 make one comment on that. The implementation is not
17 scheduled to start until January 1st, 2004. And so my
18 suggestion there is we report back essentially one year
19 after implementation, because then we would have, kind of,
20 information about how it's going forward and what kind of
21 problems there are, and for example, Mr. McKinnon's
22 concern about whether or not we are seeing some inequities
23 with regard to boundaries. And we could look at all of
24 those things and report back.

25 BOARD MEMBER D'ADAMO: That would be great. And

1 then one other suggestion is while on page seven of the
2 proposed resolution, I think it would be helpful to insert
3 public health organizations. This is the group that will
4 be working together with the local districts, make it
5 broad enough to encompass the Lung Association, and others
6 that have made comments today.

7 CHAIRPERSON LLOYD: Great. Any other comments?

8 BOARD MEMBER CALHOUN: Have we not resolved most
9 of the concerns expressed by people who have testified
10 here today, except for their desire that we just not ban
11 burn barrels?

12 PLANNING AND TECHNICAL SUPPORT CHIEF FLETCHER: I
13 would say that that's generally true with the exception of
14 the issue associated with burning of paper and cardboard
15 in the red areas.

16 I think that would be the one issue we probably
17 have not resolved to everybody's satisfaction.

18 CHAIRPERSON LLOYD: With that, I would entertain
19 a motion.

20 BOARD MEMBER D'ADAMO: So moved.

21 BOARD MEMBER RIORDAN: I'll second the motion,
22 Mr. Chairman.

23 CHAIRPERSON LLOYD: I think. Fine okay,
24 Supervisor DeSaulnier?

25 BOARD MEMBER DeSAULNIER: I'm fine. I'm trying

1 to be quiet.

2 CHAIRPERSON LLOYD: Do you want that on the
3 record?

4 BOARD MEMBER DeSAULNIER: No.

5 CHAIRPERSON LLOYD: All in favor say aye?
6 (Ayes.)

7 CHAIRPERSON LLOYD: Anybody against?
8 It's a unanimous vote on that one from here.

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2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
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5 That I am a disinterested person herein; that the
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10 I further certify that I am not of counsel or
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12 way interested in the outcome of said meeting.
13 IN WITNESS WHEREOF, I have hereunto set my hand
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